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The Party's turn to public repression: An analysis of the '709' crackdown on human rights lawyers in China

Eva Pils*

Abstract. The intensified and more public repression of civil society in China is part of a global shift toward deepened and technologically smarter dictatorship. This article uses the example of the '709' government campaign against Chinese human rights lawyers to discuss this shift. It argues that the Party-State adopted more public and sophisticated forms of repression in reaction to smarter human rights advocacy. In contrast to liberal legal advocacy, however, authoritarian (or neo-totalitarian) propaganda is not bounded by rational argument. It can more fully exploit the potential of the political emotions it creates. Along with other forms of public repression, the crackdown indicates a rise of anti-liberal and anti-rationalist conceptions of law and governance and a return to the romanticisation of power.

Keywords: Authoritarianism; China; human rights advocacy; political emotion; repression, resistance; totalitarianism.

Introduction

In July 2015, the *China Daily* English edition carried an article titled 'Lawyers "tried to influence verdicts."' (Cao 2015). This and other reports discussed a gang of professional legal advocates operating out of Fengrui Law Firm in Beijing who, the reports alleged, had engaged in 'hyping up' legal cases (Legal Daily 2015). Some of their alleged criminal activities had occurred in courtrooms, where they had 'spoken wildly and incoherently' as well as 'insulted judges.' Allegedly, they had also used other employees of the firm, as well as clients and their friends, family and sympathisers to organise 'rackets' outside official buildings. Fengrui had, the report claimed, also paid people to participate in these 'rackets' (Legal Daily 2015)

In August 2016, after a year of being held incommunicado, four of the members of this "'rights defence" ring' were put on trial and convicted of subversion crimes, while another lawyer was reported to have been 'released' after admitting her guilt. The trials were partly televised. In scripted statements read out in the courtroom, and in interviews some of the lawyers and legal assistants gave, the lawyers standing trial could be seen renouncing their former activism, as well as denouncing some of their colleagues, and thanking and praising the authorities. Some of them added that they had been manipulated by China's foreign enemies, and vowed not to let this happen again. (Buckley 2016)

The trials had involved only government-approved lawyers and not been genuinely open to the public – they had an audience, but a carefully selected one; and almost none of the defendants' family, friends or originally appointed lawyers had been allowed to attend. It was months after the time of these trials before their friends managed to get back in touch

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with at least some of those who had been detained in 2015. Of the few individuals able and willing to discuss their experience, several disclosed that they had been tortured and forcibly ‘medicated,’ some before being put through what they explained had been carefully scripted and rehearsed ‘trial’ hearings or public confessions, followed by ‘release’ into *de facto* house arrest.¹

The novel phenomenon of ‘TV confessions’ and ‘TV trials,’ the mingling of fact and fiction in this context, and the disturbing methods by which such outputs are produced recall the coercively enacted self-criticisms and show trials of China’s Leninist-Maoist era; but they also reflect a changed 21st century communicative environment and broader tendencies on the part of governments to produce and propagate ‘alternative facts.’² I argue here that in order to understand how these methods emerged, how they work, and how they affect rights advocacy practices, we need to situate them within a broader debate about the relationship between rationality and emotion in citizen-state contention and relate them to a widely observed global rise of authoritarian legal and political practices. The visual repression of rights advocates discussed here is in some ways a reaction to visual advocacy; but its rationale is anti-rational, and thus diametrically opposed to that of human rights, in ways visual advocacy cannot be. To make this argument, I first discuss visual advocacy and its special significance in a repressive, authoritarian political setting, before turning to an analysis of how Party-State repression tried to change the narrative of visual advocacy in the context of the so-called 709 Crackdown. I conclude by arguing that the turn to visual and other ‘smarter’ forms of repression represents a dangerous romanticisation of political power. In discussing this aspect this article contributes reflections on the dark side of political emotion to a growing body of literature on this subject.

The rise of human rights advocacy

By the time lawyers such as Zhou Shifeng, Li Heping, and Jiang Tianyong faced ‘justice’ at the hands of the Party-State, they had accumulated well over a decade of experience of human rights advocacy. Some of the most momentous and important recent cases they had been involved in were to become the cases the Party-state accused them of working on in the 709 Crackdown. Its accusation almost invariably focused on the manner of advocacy the human rights lawyers had used, at times deliberately obscuring the substance of the underlying human rights cases. We need to understand the underlying cases to prepare for an analysis of how and why the authorities targeted these cases of advocacy and of what this means for the trajectory of law and governance in China. The present section discusses three of these cases, which, together, throw a light on how through their case work lawyers and rights defenders contest the Party-State approach to human rights and rule of law ‘with Chinese characteristics.’

Human rights lawyers and other human rights defenders in China have to cope with many challenges. Most centrally, the judiciary is institutionally weak, and court litigation is a highly controlled process. In cases in which lawyers and lay advocates attempt to help their clients sue the authorities, they can find themselves unable to get into court when the court

¹ Discussed below.

² U.S. Counsellor to the President Conway used this phrase during an interview on 22 January 2017 in defence of U.S. government claims about the size of the crowd attending U.S. President Trump’s inauguration. (Bradner 2017)

refuses to file their case (*bu yu shouli*), or meet with refusals to hear legally compelling but politically or economically inopportune arguments. In cases in which lawyers defend their clients against the authorities (almost always criminal cases), the system is closed against them and against the public in different ways. (Halliday and Liu 2016: chapter 3; Pils 2014: chapter 4) In these cases, the lawyers' clients are almost invariably in custody; and they may have difficulties accessing these clients, as well as the case files.

In criminal trials, in particular, lawyers and defendants may find themselves barred from addressing certain potentially crucial aspects of their client's case – such as the client's allegation of torture to extract a confession – and even when they do succeed in advancing such arguments, they may find their points ignored by the court. Lawyers have reported consistently not being allowed to present their defence in court when it touched on issues the court deemed inappropriate, such as freedom of religion for Falun Gong practitioners. They also find it difficult to get evidence relevant to the defence adduced in court.³ Lawyers have even reported being stopped from drawing on the visual evidence of the bodies of their own clients. In a case where criminal defence lawyers in vain attempted to use the torture scars of the defendant to question the reliability of his 'confession,'

‘We told [the defendant], even with handcuffs on -- no matter how -- you've got to try and take off your trousers to show [your scars from torture] to the judge! But the judge wouldn't let him.’ (Anonymised Conversation #2 2012-5)⁴

The official criminal conviction rate in 2014, for example, was 99.93%. (Gu 2014; Jacobs 2015)⁵ It is very difficult to win cases against the authorities of the state also in other types of litigation, and nearly impossible to litigate against Party bodies as such, due to the Party's unclear status within (or vis-à-vis) the legal system. (He 2013) The party-state-controlled setting of the judicial process, moreover, makes it difficult to allow for public scrutiny of this process. To give an example, even in trials that are nominally 'public,' the authorities can prevent citizens from obtaining permits required to audit the trial (*pangtingzheng*). Beyond the immediate physical space of the courtroom, the party-state controls official media reports

³ McConville sums up the problems ordinarily affecting the defence in criminal trials as 'The risk of prosecution of the lawyer if defence witnesses give evidence that is different from their statements they gave to the police; the reluctance of witnesses to become involved in criminal cases; the lack of resources available to lawyers; the exclusion of lawyers from the interrogation stage; the lack of early and full disclosure of the prosecution case; the absence of prosecution witnesses from the trial and hence to inability to cross-examine witnesses and test evidence by forensic processes; the fact that in almost all cases the prosecution will have extracted one or, frequently, more statements of confession from the defendant.' (McConville 2013: 317)

⁴ References to conversations with rights defenders in China have been anonymized using standard social research citation methods.

⁵ This extremely high conviction rate is borne out in empirical studies such as McConville (2013). It differs significantly from European continental law jurisdictions, although the 'conviction rate' as number of convicted relative to number of those standing trial is also very high in these formally similar 'civil law' systems. The process is designed to eliminate cases before they get to the stage of indictment. For example, in Germany, the number of convicted persons relative to the number of suspects [persons determined to be under *Straftatverdacht*], for robbery, rape and drug related crimes, respectively, was 31%, 15% and 28 % in 2015. (Jehle 2015) The rate of acquittals of accused persons standing trial (*Hauptverhandlung*) hovered between 3 and 4 % (Justizministerium Nordrheinwestfalen 2015). Many more data, including those compiled by human rights organisations on issues with abuse and wrongful convictions, would be necessary to assess the criminal justice processes comparatively. For a differentiation of innocence rate and conviction rate, see Wang Ruseng (2017).

and prevents major human rights cases from being reported independently via the widely and easily accessible national media.

The legal profession is controlled by a number of institutions, namely, the Justice Bureaux, the Lawyers' Associations and law firms as well as (as always) the Party. (Pils 2014: chapter 5)⁶ Measures that can be imposed on lawyers and law firms range from instructions on how to handle a particular case or (in the case of instructions to law firm heads) to fire a particular lawyer, to suspension and disbarment or deregistration of a particular lawyer or, effectively, an entire firm. All lawyers and law firms are required to undergo annual appraisals. As a result of this exercise, a lawyer will be classified as 'competent' or 'incompetent' by the authorities. Those who engage in work deemed provocative are at risk of being classified 'incompetent,' which can lead to being suspended or even disbarred. Since the early 2000s, when *weiquan* or human rights lawyering emerged as distinct form of legal practice in China, rights lawyers such as Gao Zhisheng have suffered suspension and disbarment in retaliation for their advocacy. (Pils 2006)

For lawyers willing to brave this inhospitable environment, risks do not only originate from the judicial and justice bureaucracies but also, much more ominously, from the Party-State's extensive security apparatus, which includes the ordinary police, state security, and various other agencies such as, since 2012, the Party's powerful National Security Commission. The security apparatus controls, potentially at least, all aspects of their lives. It is not only capable of putting them under surveillance, tracking and following them, 'travelling' or indeed forcibly disappearing them, detaining them under a wide variety of legal and illegal detention systems; prosecuting; and torturing them. (Pils 2014: chapter 6) It is also able to target any particular lawyer's social and professional environment by the same methods, and lawyers have reported with great consistency that the targeting in particular of their children, parents and spouses puts great pressure on them.⁷ For example, when describing how his father once reproached him for having abandoned a safe career and family life to 'fight the Communist Party,' and how he tried and failed to explain this to his father, a lawyer was overcome with the mental image of facing his father. He could not go on describing it, and broke down. (Conversation #105 2013-1)

At least until 2010, at a rough estimate, the authorities of the justice bureaucracies and the security apparatus seemed well able to create and maintain effective divisions within the professional legal community. *Weiquan* and *renquan* (human rights) lawyers tended to be stigmatised as radicals, even by colleagues who agreed with their more abstract goals and convictions. (Cullen and Fu 2010) Not only professional lawyers, but also civil society organisations, including foreign-based ones with offices or staff (or projects) in mainland China, kept at a distance from this group of lawyers, as associating with them was understood to bring risks of control or persecution. The authorities found it comparatively easy to cut off or at least curtail communication with them. As a consequence, Party-State oppression itself remained obscure, almost invisible to many. When a major crackdown in 2011 saw more lawyers than ever before suffer forced disappearance and torture (Branigan 2011; Pils 2013), it seemed likely that the few dozen rights lawyers operating at the time would be effectively diminished, if not altogether stopped or silenced, as a consequence.

⁶ These actors work in accordance with legal rules to some extent; their operation reflects the duality of a 'State of norms' and 'State of measures.' (Fraenkel 1941)

⁷ Pils (chapter 5) discusses control by the justice bureaucracy and control and repression by the security apparatus (chapter 6). See also O'Brien and Deng (2015).

From about 2010 onward, however, lawyers had taken recourse to the power of images with increasing savvy, discovering visual advocacy as a strategy and the social media as a novel tool for the dissemination of messages. From about that time onwards, the plight of rights lawyers began to draw wider public attention. (Halliday and Liu: chapter 7) Cases instrumental in this development whose significance has been discussed by other scholars include, for example, the ‘Beihai’ case and the Fan Qihang case. In both cases, visual recordings of police brutality served a crucial function not only in documenting abuse but also in attracting concern and support. In the Beihai case, it was the image of a lawyer knocked unconscious by hired thugs that produced this effect. (Conversation #74 2013-1; Zhang 2012) In Fan Qihang’s case, the defendant Fan Qihang’s account of particularly brutal torture, provided to his lawyer, who bravely recorded it, served this function. (Halliday, Liang and Liu 2014; Halliday and Liu: chapter 6; Pils 2014; Cohen and Pils 2010; Wang 2010, He 2010) While all efforts to rescue Fan failed tragically his case had a sad poignancy and significance for anti-torture and anti-death penalty advocacy.⁸

The use of visual advocacy forms

Cases using innovative advocacy techniques included the wrongful conviction case of Leping, the case of evictee resister and criminal suspect Fan Mugen, and the case of human rights advocacy for human rights advocates, rooted in Falun Gong persecution – three cases that were to acquire further prominence in the context of the ‘709 Crackdown:’

In the Leping case, young men accused of a brutal rape and double murder of a young couple ‘confessed’ under severe torture. The defendants were given a ‘death penalty with two years’ reprieve’ sentence. Some nine years after the initial conviction, another man, already facing the death penalty for another murder, admitted to being the true perpetrator. At this point, rights lawyers took on the case, against resistance from the authorities, who refused to acknowledge their appointment by the defendants’ families. The families, the criminal defence lawyers and sympathising colleagues, videographers, NGO workers, and other citizens joined in a variety of activities ranging from informally organised workshops to discuss the case as an example of problems with the death penalty, to ‘flash mob demonstrations’ outside the Jiangxi High Court Building, to protest the fact that the appointed lawyers in this case were not given access to the case files.⁹ Wu Gan, an activist called ‘Super-vulgar Butcher,’ who commanded a wide online following, went even further, pointing to individual officials he held responsible for case. For example, he displayed an image of the President of the Jiangxi High Court wearing a painted Hitler-like moustache. (Weiquanwang 2015) A videographer documenting the case featured the detainees, their lawyers and families. Some scenes show the lawyers speaking with the families, asking about their children and their work, quietly drawing attention to the poverty of the family, their helplessness, and their remoteness from the legal process. (Anonymous 2012; Jiang 2016; Xing and Liu 2015)

⁸ One of the lawyers described it as a case of ‘doctoring a dead horse as though it were still alive (死马当做活马医).’ (Conversation #2 2011-5)

⁹ In some pictures of these activities, they can be seen holding banners that count the days they have been asking for access to the case file, such as, ‘Jiangxi High Court: Lawyers demand access to case files – Day 7.’ In another picture, family members of the detained hold a banner that reads ‘A court not righting wrongs is really dark -- Major wrongful death penalty case in Leping! (冤案不平反, 法院真黑暗 / 乐平特大死刑冤案江西高院律师要求阅卷第 7 天) (Tian 2015).

Videography also became a tool of human rights advocacy used in mass grievance cases such as housing and land rights cases. From the early 2000s onward, evictees would create relatively simple visual records by photographing or video-taping evictions and demolitions to create a public record of how the eviction was carried out.¹⁰ Soon, videographers started capturing the complexity of housing demolitions and land-grabs as well as resistance to these measures; and with these efforts sought to challenge the official account of a particular case. In the case of evictee Fan Mugen, who had stabbed and killed two members of an eviction team who, he contended, had attacked him and his family, his lawyers argued that that the crucial part of the recording that would have shown him trying to protect his wife from violence. But this crucial part of the police video footage turned out to have been lost, according to the police. Advocates were reduced to using other images, such as a photo of the -- himself also injured -- Fan Mugen; audio-visual recordings of a seminar organised to discuss the case; images and film footage documenting how supporters were prevented from entering the court building where Mr Fan is tried; and a commemorative gathering on the second anniversary of the incident that led to his conviction. (Boxun 2014; Qiao 2015; Yang 2015) Although these efforts were limited by censorship, they were important as a challenge to the official view.

In the ‘Jiansanjiang Incident,’ four lawyers, Jiang Tianyong, Tang Jitian, Wang Cheng and Zhang Junjie, had set out in search of their clients, thought to be held in the ‘Qinglongshan Legal Education Base’ of Jiansanjiang, Heilongjiang Province in the northeast of China. (Wei quanwang 2014) The clients had been taken away by the police because they were members of the spiritual group Falun Gong. Their lawyers feared that they might be tortured. Joined by some other supporters, the lawyers gathered outside a gate where they thought their clients might be detained, and held up signs appealing for access to their clients. When they posted pictures of themselves online, the police placed them under ‘administrative punishment detention’ for ‘disturbing public order’ for 5 to 15 days. In detention, they were severely beaten.¹¹ When several of the lawyers’ colleagues and friends travelled to Jiansanjiang to protest the detentions in a peaceful demonstration, including more pictures circulated via the social media, the police blocked further supporters from joining these protesters and, without giving any reasons, or indicating what procedure they were following, detained some of the supporters who had already arrived. (Human Rights in China 2014; Nesossi 2015: 967)

The Leping, Fan Mugen and Jiansanjiang cases can be regarded as representative examples of a wide range of similar cases and incidents between 2010 and 2015. A unifying feature in these cases is that people who start out acting as advocates end up as victims, and that the incidents of violence against human rights defenders are recorded audio-visually.¹² Pictures of the unconscious Lawyer Li Jinxing in Beihai (see just above) and of Lawyers including Jiang Tianyong showing his bruises from torture in Jiansanjiang were followed by the picture of Lawyer Li Jinbin in a chokehold by ‘unidentified thugs’ just outside the gate of the court where he had come to represent a client in April 2015 (Chinese Human Rights Defenders 2015), pictures of Lawyer Xie Yang with his leg broken by ‘unidentified thugs’ after trying to represent the family of a petitioner shot dead by the police The Shanghaiist

¹⁰ The police will typically also film the process. An example is He (2010).

¹¹ One of them, Tang Jitian, later spoke to the BBC about his experience. (Hatton 2015)

¹² For a partial list of violent incidents involving lawyers between July 2014 and June 2015, see Human Rights Watch (2015).

2015; Human Rights in China 2015; ,¹³ and the picture of Lawyer Wu Liangshu standing beaten, bruised and with half his trousers torn off outside a district court building in Nanning, where he had unsuccessfully attempted to file a case and refused to hand over his mobile phone ‘for inspection’ on request, after recording his conversation with the officials rejecting his application.(Lau 2015) In some instances, like that of Lawyer Xie Yang, the underlying case that had led to retaliation against rights lawyers had already attracted nationwide attention; and once attention had been drawn, it also extended to further attempts on the part of the authorities to stop Xie Yang. Thus, Xie Yang’s original law firm reportedly asked him to quit because he had handled sensitive cases, and when Xie Yang subsequently failed to obtain the justice bureau’s approval for registering a change of his law firm, he filed a complaint against the Hunan Justice Bureau, triggering a public hearing. Pictures circulated online captured hundreds of supporters in front of the court and in the courtroom at his hearing, described as ‘extremely intense.’ (Tian 2014; Yuan 2015)

Advocacy work, joint rescue actions, and advocacy-focused gatherings like the ones described above naturally also led to a discussion of the system’s wider perceived inadequacies. For example, in the context of forced evictions and land-grabs, some seminar participants argued that the nature of the injustices occurring in this context was ‘connected to the very nature of the system.’ (Boxun 2014) In the context of seminars organised by a loose group of lawyers, academics and activists to address the problem of torture, they searched for ways of power imbalance between prosecution and defence by introducing new mechanisms and procedures.¹⁴ The connection between the use of audio-visual techniques and social media on the one hand, and the exposure of wider systemic issues would require further study in each case. The openness of audio-visual records along with social media dissemination may have allowed for more creative engagement with the political causes and further implicatons of these cases. It made clearer that lawyers’ persecution could result in producing unjust verdicts or blocking access to justice. Despite the authorities’ intransigence and despite a series of crackdowns against them, many human rights lawyers were upbeat; they felt ‘unstoppable.’(Johnson 2014)

The rise of visual advocacy and the use of social media for advocacy purposes have been discussed as global phenomena. New communication technologies that allow ordinary people to record their daily experience visually and audio-visually has seen the integration of such recordings and, indeed, creative uses of them into our everyday lives, as well as in certain contexts in the legal process. While some have welcomed unconventional, including nonverbal forms of advocacy (Shirky 2008), others have expressed concern about the power of images potentially distorting rational judgment -- our ‘normal,’ more verbally-based thought process. For example, Porter argues that the legal profession is currently lacking the ‘finely calibrated tools and rich traditions with which we interpret and argue about language.’ Yet, Porter also suggests that we should discuss ‘how to create traditions that will allow the law to harness its visual power without sacrificing the virtues of our more staid traditional discourse.’ (Porter 2014; also Feigenson and Spiesel 2009; Jewel 2009; Mnookin 2014) The ‘traditional discourse’ referenced is, of course, that of a judicial process operating on a liberal constitutional model. Other scholars, too, have emphasised the centrality of rational

¹³ Further on the ‘Qing’an Incident’ in Heilongjiang (the case of Xu Chunhe) *see* Zhao (2015); for independent footage of the incident *see* Boxun TV (2015).

¹⁴ On one such occasion, some argued that the introduction of genuine juries in Chinese criminal justice would be a way forward, but not all agreed. (Participant observation, late 2013).

normativity in the context of uses of audio-visual media for advocacy purposes. (Gregory and Losh 2012; Mackie 2014)¹⁵

The novel uses of advocacy by Chinese human rights lawyers discussed here confirm that both evidential-informative and emotive uses of visual advocacy well illustrate that a human rights advocate must ultimately, even if they are not working in the judicial setting that is the focus of attention of legal scholars, make an argument about that right being violated or at risk. *Moving* an audience to pity, commiseration, or a wish to help is after all different from obtaining their acknowledgement that one has been wronged. Visual means can be effective in elucidating their wrongs, in moving audiences to understand these, rather than manipulating their judgment.

Yet, *qua* human rights advocacy, visual advocacy is dependent on the acceptance of the rules and principles underpinning human rights and has to stay within the boundaries of what these rights (such as expression and free trial rights) allow. Whatever emotion it produces, visual advocacy is bounded by rationality, and human rights advocates' central message takes a verbal form.¹⁶ The banners used to seek access to clients and case files in the Leping case, mentioned above, are good illustrations.

In conditions where rational normativity is especially challenged, audio-visual expression can be even more important than in settings where both verbal and nonverbal messages can be delivered freely. Visual expression is not only better for communicating messages which the government would deem 'sensitive' or 'subversive' if they were put in verbal form, and for making otherwise hidden illegality and repression visible, sometimes literally by providing visual evidence, for example, of places and processes of illegal detention. It can also encourage one to think and express what one would not dare to write or be able to publish in a system that practices censorship.

A message that is deliberately ambiguous can moreover require a kind of active and creative interpretation that by itself challenges the passive-receptive attitude engendered by government propaganda and censorship. An example for this is the leg-gun action initiated by Ai Weiwei around 2014. Via social media tools, lawyers and others posted pictures of a row of lawyers in seated position, each holding up their left leg, as though it were some kind of firearm. It seemed that Ai was mocking a dance routine used in one of the Party's revolutionary opera classics, but nobody could tell with certainty.¹⁷ Because of the

¹⁵ Pruce argues that while one important, early context in which images are used are humanitarian and emotive – as in the iconic, grim images of Biafra children -- advocates working in human rights contexts have a different task from humanitarian campaigners as it is, in her view, 'the *coercive potency of information* [that] has proven to be the advocate's most effective weapon.' (emphasis added, Pruce 2016: 60). Uses of the visual to 'assert forcefulness' are more typical of activism than of advocacy – the process of speaking up for another, making another person's case.

¹⁶ Precisely because in China, these rights are not protected and no liberal-democratic structure is in place, its visual human rights advocates are obliged to spend a greater part of their energy on addressing institutional flaws than advocates in other systems, and are more often reduced to creating evidence the institutions ignore. Thus, while advocates might be confident that filming an illegal stop and search really will make evidence obtained through such illegal conduct valueless in a later criminal process in New York, video-graphic evidence substantiating a torture allegation was simply ignored by the judiciary Supreme People's Court in the Fan Qihang case, as discussed earlier. And yet, in this case, the evidence created was still more forceful than in the case of the defendant not allowed to display his torture wounds during a court hearing. (Conversation #2 2012-5; BBC 2016)

¹⁷ Frizell (2014) makes reference to the CCP opera 'The Red Detachment of Women.' Li Hao (2014) cites Ai Weiwei as saying that the leg-gun images are intended to oppose abuses of the coercive power of weapons

inscrutable oddity and comicality of the pictures and the openness of artistic interpretation,¹⁸ they seemed to defy censorship: there was no definable, verbal message to ban or penalise; and yet they were unmistakably subversive.

In sum, while Chinese visual advocacy emerged as part of a global trend, it took on a particular significance in China's unique institutional context of a limited and dysfunctional legal process and pervasive government censorship. It gained in importance as visual recording methods become more widely available to ordinary people. In the cases discussed, rights lawyers' visual and social media advocacy could not genuinely substitute for rational argument in court. But it could tell stories and communicate concerns that could have been the beginnings of a human rights case in more hospitable institutional settings. In using the emotional power of the visual and the communicative tools of emergent social media, lawyers thus presented novel challenges to the Party-State authorities, in part succeeding in subverting the Party-State intention to take human rights advocacy out of the very definition of 'human rights'

The authorities initially dealt with innovative human rights advocacy and activism in much the same way they dealt with more conventional advocacy. They censored reporting as much as possible and tried their best to intimidate and deter would-be participants, clearly hoping that they would be able to reduce or slow down the circulation of rights advocacy messages by various internet censorship means. But emerging, novel forms of advocacy triggered a programme of heavy, concerted, and sophisticated retaliation from the Chinese Party-State. Importantly, several of the visual advocacy examples considered above -- the 'Jiansanjiang Incident,' the Leping wrongful conviction case, and the case of evictee resister Fan Mugen -- figured in the wave of repression that started in 2015, three years into Xi Jinping's ascendancy to China's leadership; and the repressive methods used copied, mocked and expanded some of the methods human rights defenders had started using.

The unfolding of the 709 Crackdown

The 709 Crackdown is named after the 9th of July, 2015, the date it began with the night-time detention of Lawyers Wang Yu and Bao Longjun and their sixteen year old son, Bao Zhuoxuan or 'Mengmeng'. Bao Longjun and Mengmeng were on their way to the airport; Wang Yu was home and managed to send out a few social media messages before she was taken away by the police. (Fifield 2015)¹⁹ The detention raised alarm, but it was not entirely unexpected. Crackdowns or, in official jargon, 'strike-hard' campaigns against oppositional groups have long been used in China; and such crackdowns have also affected human rights lawyers, for example when about a dozen lawyers were disappeared and, tortured in early 2011. (Committee to Support Chinese Lawyers 2011) At the time of the initial detentions of Wang Yu and others, it seemed that the 709 Crackdown would be similar. A difference began to emerge only when, over the next few days, hundreds of human rights defenders were affected.

The crackdown mainly targeted groups connected to rights advocacy: rights lawyers and assistants connected to Fengrui Law Firm, like Wang Yu and Bao Longjun; and Lawyer

¹⁸ Dworkin (1985: chapter 5) argues that even textual interpretation is autonomous (author-independent); but text constrains interpretation in different ways.

¹⁹ These messages (July 2015) are on file with author.

Li Heping and his colleagues (with some overlap between these groups).²⁰ Human rights groups such as China Human Rights Lawyers Concern Group (CHRLCG) and Chinese Human Rights Defenders (CHRD) have put the total number affected at over 300 on their websites. It is important, however, to appreciate the wider psychological effects of the crackdown on wider circles of lawyers and others connected to the legal system who became aware of it.

In targeting the abovementioned groups, the system clearly selected those rights advocates who had effectively reached beyond the boundaries of conventional legal advocacy and who – despite the limitations discussed in the preceding section – had done so with some success. The Fengrui firm had employed Wang Yu and Bao Longjun as lawyers willing to work on ‘sensitive’ cases such as that of Fan Mugen, support fellow lawyers, and engage in visual advocacy, as well as campaigners working with these lawyers, such as the activist ‘Super-Vulgar Butcher.’ Lawyer Li Heping was a veteran human rights lawyer, who had worked on cases such as the ‘Leping’ wrongful conviction case, and who had appeared in citizen documentaries campaigning to end torture.

A dozen core targets of the crackdown were held in pre-trial custody for many months, initially in conditions amounting to forced disappearance. Within days from the first detentions, newspapers and national Chinese television carried elaborate, lengthy reports on their cases;²¹ but they did not disclose where the detainees were held or what exactly the charges against them were. Throughout these lawyers’ ordeals the authorities denied them access to their clients, mostly on the grounds that the detainees had ‘dismissed’ them,²² and in some cases on purported grounds of ‘state security.’ (Yang 2016)

The authorities did not allow other rights lawyers to take up the defence of their colleagues. Indeed, some of the over two hundred lawyers and legal workers affected in the crackdown, were held for a few hours or days chiefly to ‘warn’ them against supporting their colleagues. For example, one lawyer, who was ‘caught’ when getting off a train and interrogated by domestic security police from his hometown, who had travelled there to meet him, described the following conversation.

‘[The police officer] said, “We are warning you herewith, solemnly warning you, you are not allowed to take part in this matter in any manner whatsoever.” I said, “What do you mean by ‘take part’?” He said, “Any manner whatsoever. Including online messaging or reposting messages – none of that. If you don’t listen, you will be a co-suspect with them.”

...He said, “if you get involved you’re a fellow suspect with them. And we know exactly what you have been doing in the past.”

...I asked him directly, “do you mean not even if the lawyer’s families asked me to act as someone’s criminal defence lawyer -- defending their rights in accordance with law, that would be my job as a lawyer.” His answer was clear. “No

²⁰ The latter group included Christian activist Hu Shigen and some of those working with him.

²¹ Discussed in detail below.

²² Some lawyers purportedly ‘dismissed’ refused to abandon their clients. One of these stated, ‘In a situation where they are facing the calamity of imprisonment, there is no way [the detained lawyers] would let the Lawyers’ Association find a completely unknown lawyer for them [in our stead]. And again, from a legal point of view, the Lawyers’ Association can only be approached for a recommendation when the detained suspect does not know any lawyer they could appoint...it is just unconvincing, legally, emotionally, and rationally.’ (Conversation #128-16-1)

way. If you get involved, you're a co-suspect.” (Conversation #137-16-1; similar: conversations #121-16-1; #138-16-1)

Gradually, it became clear that (most of) the detainees were held under ‘residential surveillance in a designated location’ (Article 73 CPL). As noted earlier, Article 73 gives the authorities a mechanism for detaining suspects without access to legal counsel for up to six months in cases, *inter alia*, of suspected crimes against national security such as the notoriously vaguely defined offence of organizing, plotting or carrying out the scheme of subverting the State power or overthrowing the socialist system’ (Article 105 (1), Criminal Law).²³

While cutting them all off from legal counsel and effectively disappearing them,²⁴ the authorities also put some of the detainees on carefully designed and partly scripted public display. Thus, as mentioned earlier, the director of the law firm where Wang Yu and Bao Longjun had worked, Zhou Shifeng, had been taken into custody shortly after them, was shown ‘confessing’ to instigating his employees to engaging in rights advocacy on television. (Cao 2015) Wang Yu and Bao Longjun were shown on television too: after some friends tried to help smuggle their son out of the country, the authorities caught up with him in Myanmar and returned him to China. They then showed Wang Yu and her husband on national television, devastated and in tears on getting this news. (China Human Rights Lawyers Concern Group 2016)

Following these mass detentions and the release of the majority of those taken away; some six months passed without any news or information on the whereabouts of the detained. In January 2016, the authorities announced, finally, in written form that the detainees were held under arrest on charges of subversion or inciting subversion. From August 2016 onward, most detainees resurfaced: some were ‘tried,’ and some ‘released.’ The official TV reporting showed several defendants – lawyers and legal assistants -- themselves affirming that the trials had been fair and that their legal rights had been respected throughout.

For example, on 1 August 2016, Lawyer Wang Yu, who according to the report, had been released, was ‘interviewed’ by a central-government-friendly Hong Kong media outlet, which released a video recording of the interview on its website. In the ‘interview,’ Wang Yu does not mention being held without access to independent counsel for over a year. She makes no comment on her altered appearance (to her friends, her face looked puffy and her eyes seemed unfocused) and no reference to the terrible shock of learning about her son’s aborted flight. Seated in what could be the veranda of a pleasant, lush holiday resort, against a backdrop of tuned into the broadcast during intervals, her quiet voice alternating with soft soothing music, she instead speaks of her deep gratitude for the government looking after her during the past year, especially when she was diagnosed with illness, and says she has come fully to experience how caring and civilised the Chinese justice system is. (Evernote 2016; Cohen 2016) After this broadcast, Wang Yu vanished again for many months.

In the days following Wang Yu’s appearance, several other 709 advocates were displayed confessing and repenting their ‘crimes’ of subversion in court. For the most part,

²³ On ‘subversion’ and ‘inciting subversion,’ see Teng Biao (2012b); Joshua Rosenzweig, ‘The Sky is Falling: Inciting Subversion and the Defense of Liu Xiaobo,’ in Béja, Fu and Pils, *Liu Xiaobo, Charter 08, and the Challenges of Political Reform in China*, Hong Kong University Press, 2012, pp. 31-60.

²⁴ As the detainees were effectively held incommunicado with information on where they were held, they were forcibly disappeared in the sense of the International Convention for the Protection of All Persons from Enforced Disappearance, to which China has not acceded.

the authorities described the detentions that had preceded these statements as measures of ‘residential surveillance in a designated location’, making use of Criminal Procedure Law reforms enacted in 2012. Peter Dahlin, a Swedish national detained for his work supporting some of the human rights lawyers, was also put in front of a national television camera ‘confessing’ to ‘caus[ing] harm to the Chinese government and hav[ing] hurt the feelings of the Chinese people.’ (Hong Kong Free Press 2016) All these reports and recordings became available online within hours from the original broadcasts. The official reports on China Central Television, via *People’s Daily*, *Legal Daily*, *Xinhua News Agency*, *Global Times*, *The Paper* and other official, i.e. government-controlled media outlets reported the August 2016 trials, especially.

The official ‘reporting’ claimed that the 709 trials followed an open and fair procedure. They not only used the phrase *gongkai shenpan* and similar phrases, but also provided detailed information on how many people there had been in the audience and on domestic and ‘extra-territorial’ Hong Kong and Taiwanese media representatives who had attended. Despite evident flaws, various techniques and strategies were adopted to make the government version of the trials more plausible.²⁵ As friends and family of the defendants had been harassed and restrained from going to the court to attend the hearings they produced statements by these defendants saying that they did not wish their families to attend – because it would be ‘too hard to bear’ or because ‘they are all peasants and would not understand.’ (Zhongguo Chang’an Net 016; Ji 2016; Liu and Zhang 2016) And while no independent foreign media were admitted to the court hearing as such, the authorities created a temporary ‘foreign media centre,’ at a location at some distance from the court, where they provided workspace, beverages, internet access and a video-streamed version of the trial ‘transcripts’ on a large screen; the media centre itself was the subject of a national television report.²⁶

By displaying rights lawyers being tried and confessing to crimes, the reports evidently served the function of portraying the defendants as subversive criminals. Driving this point home, they were supplemented by the publication of some purported trial ‘transcripts.’²⁷ The ‘transcripts’ only mention the conduct deemed criminal in brief terms, and provide legal labels, but little legal analysis justifying these labels. For example, according to the transcript, Lawyer Zhou Shifeng ‘used a law firm as a platform to hype up key cases and incidents, and carrying out activities to subvert state power is being handled separately.’ Lawyer Li Heping (who had not yet been publicly indicted let alone tried at that time) ‘used funding from a certain foreign NGOs to engage in activities to subvert state power.’ Zhai Yanmin ‘unlawful organized petitioners to make unruly petitions and to stir up trouble in order to carry out activities to subvert state power.’ Together, they ‘secretly plotted to subvert state power, and put forward systematic ideas, methods, and measures for the subversion of state power.’ (Human Rights in China 2016)

In brief paragraphs, the ‘transcripts’ mention some activities deemed to constitute the facts of the defendants’ crimes.²⁸ Amongst the issues and cases mentioned in the

²⁵ Cohen (2016) forcefully makes the point that to say Wang Yu’s ‘confession’ was *probably* coerced would be silly.

²⁶ For a picture showing the BBC’s John Sudworth, see Fenghuangnet (2016).

²⁷ Transmitted by social media, on file with author.

²⁸ One such account, for example, detailed a joint meal including Hu Shigen, Li Heping, Zhai Yanmin, and Zhou Shifeng on February 2015. On this occasion, according to the ‘transcript,’ the assembled participants had

‘transcripts’ and/or reported in news broadcasts, we find some of the cases of visual advocacy discussed earlier on in this article: namely, the Leping wrongful conviction case, the evictee resistance case of Fan Mugen, the ‘Jiansanjiang Incident,’ and the case of Lawyer Xie Yang’s lawsuit against the authorities after they effectively denied him certification of his right to practice. Zhai Yanmin’s conviction, for example, rested *inter alia* on his contribution to the efforts to liberate the four human rights lawyers detained in April 2014 in the context of the ‘Jiansanjiang Incident.’ The ‘transcript’s’ account is limited to just one paragraph.

‘On 22 March 2014 the police bureau of Nongkeng, Jiansanjiang, Heilongjiang Province gave certain concerned persons administrative detentions for disrupting public order. The defendant Zhai Yanmin, between 24 and 29 March 2014, acted as co-ordinator organising people to assemble and demonstrate, hold up banners making trouble, and hold silent sit-in vigils in front of the police bureau and the Qixing detention centre, unreasonably demanding the release of those detained. Afterward, Zhai Yanmin made up facts and circulated slanders blackening the reputation of the government, and maliciously hyped these up online, encouraging lawless persons [sic] to incite persons unaware of the true facts to develop hatred toward organs of the national government, on behalf of ‘opponents of tyranny and violent government and heroes pursuing democracy and constitutionalism.’ (Human Rights in China 2016)

This sparse account contrast sharply with the information, narratives, and images advocates involved in the Jiansanjiang case had used earlier. There is no mention here of what motivated Zhai to call for release of the four lawyers (‘certain concerned persons’) or of the background of the four lawyers’ original advocacy on behalf of their Falun Gong clients detained in an illegal ‘legal education centre.’ Neither the ‘transcripts,’ nor any of the reports engage in any way with the substance of the legal advocacy cases that had given rise to the trials. It would have been difficult, from the official media reports, to make out even what the most basic facts and legal issues in any of these cases were.

Propaganda and contestation in the 709 Crackdown

Official propaganda focused on the advocacy methods used by the lawyers (now criminal suspects) to draw attention to their arguments and to flaws in the legal process. They dwelt particularly on visual advocacy methods and described the advocates as ‘diehard lawyers’ and members of a ‘rights defence style criminal circle,’ as mentioned early on. Several news reports carried images of lawyers demonstrating outside the Jiangxi High People’s Court, for example. Other reports show some of the detained lawyers in agitated postures in court, arguing with official staff about the handling of the case or accusations of violations of court order; but they provided no background on the cases being heard in court. Overall, the reports suggested a mental association between rights lawyering and trouble-making, without providing arguments or detailed facts to substantiate their accusations of wrongdoing.

At the August 2016 trials, so far as they were displayed on television or reported via the ‘transcripts,’ not only the defendants but also their government-approved lawyers said little, if anything, of substance. They did not challenge the facts alleged – including the

discussed “‘how lawyers might get involved in the labor movement” and “how lawyers can get involved in sensitive case incidents” etc.” (Human Rights in China 2016).

subversive intentions attributed to the defendants -, question the crimes of ‘subversion’ and ‘inciting subversion’ in any way, or raise the defendants’ year-long detentions without access to family or friends. For example, when asked if they had any objection to the charges read out by the prosecutor, the transcripts records that Zhai Yanmin’s defence lawyer had ‘none.’²⁹ Zhai Yanmin and Lawyer Zhou Shifeng themselves, moreover, said that they felt deeply remorseful. To quote Lawyer Zhou:

“Esteemed Presiding Judge, judges, state prosecutors and my two esteemed defence lawyers: you have all been put to so much trouble! Through today’s trial, I have come to realise fully what crimes I have committed, and the harm my actions have caused to the Party and the Government. I hereby express my deepest repentance toward our government! [Bows.] I trust that a trial so replete with fairness and justice and the rule of law as this will result in a fair verdict, and that it shall stand the test of history and legal scrutiny. I admit guilt and repent, admit guilt and subject myself to the law; and I will never appeal!

I deeply thank Comrade Deng Xiaoping, for it was his revival of the high school examination system, and introduction of the Reform and Opening policies that allowed me to develop my talent. The second person I wish to thank is Chairman Xi Jinping, for making China more powerful through his strategy of ruling the country in accordance with law.

I had not realised how serious the West’s [effort to promote] ‘peaceful transformation’ in China was. Confrontation with the facts of my crimes must / should sound warning bells for the wider lawyer community and the people’s masses. At the same time, to promote my own career and the law firms’ profit, I recruited Internet Big Vs³⁰ to be destabilizing factors in society. Once again I truly regret this! I thank the court! I thank the prosecutor! I thank my lawyers!’ (Chen 2016; Human Rights in China 2016)³¹ .³²

These accounts, based on real, if selectively used, video-footage and ‘transcripts,’ were accompanied by some fictional further materials, released in the wake of the start of the crackdown in mid-July 2015. An animated cartoon first circulated via the People’s Daily’s *weibo* (microblog) account (CHRLCG Facebook 2016), for example, portrays ‘diehard’ lawyers as rabble-rousers, in the context of a fictitious news programme.

‘There is a self-styled group of “diehard lawyers” who specialise in hyping up negative public opinion, getting involved in hotly debated cases, and go wherever there is a hot issue. They sensationalise, emotionalise, and agitate public opinion; and they assemble to create pressure and make big trouble in courtrooms [– this is their

²⁹ Zhou’s defence lawyer’s only contribution to the trial process, according to the ‘transcript,’ was to put some questions to his client to ‘ascertain’ that he had not been tortured, that his ‘confession’ had been voluntary, that he had been ‘brainwashed by Hu Shigen,’ and that he had published some comments on labour action. (Human Rights in China 2016)

³⁰ Discussed in Veg (2015) at p. 207.

³¹ Translation has made use of Chinese-English excerpt available at Human Rights in China (2016).

³² Yet as though they had detected a note of unwelcome sarcasm in Lawyer Zhou’s exuberant praise of the legal process he had been put through, the authorities subsequently scripted some of what the defendant had said out of the written ‘transcript’ disseminated online, even though Zhou’s statement had been broadcast via national television, and although some less controlled media outlets such as the *South China Morning Post* were present at the trial, and went on to report on the discrepancies. (Jun 2016)

established practice. Their habitual method is to turn small matters into big ones and to make big ones explode!’ (No-nonsense TV 2016)

The cartoon features a mock ‘interview’ with a fictional ‘diehard lawyer,’ called ‘Lawyer X.’ Lawyer X develops the ‘principles of diehard lawyering,’ as follows:

‘First Principle: no matter what the case, you should work with vulnerable social groups. In any cases between the government and an individual, it must be the government’s fault. The truth is not important, but you must go for people in office or with money; and the best is to take issue with the system. And if you want to be a successful diehard lawyer you must make yourself out to be a defender of justice.

Second Principle: You must pick your cases well. Housing demolition cases are best. City management ones aren’t bad either; anyway, you must pick one that has to do with the functional [Party-State] departments [职能部门]

Third Principle: The moment you’ve taken on a case, send out micro-blog messages: where there’s a forced demolition going on, what princelings have been harming the ordinary people; post that to everybody... how they entrap people and how oppression forces people to rebel... When fabricating public opinion, the best is to channel it in the direction of “legitimate self-defence.”³³

Fourth Principle: When meeting a criminal suspect, highlight how the police are obstructing you; and claim you are already under surveillance and could be in danger of your life anytime. You absolutely must make yourself out to be a victim!

...’.

In the cartoon, as ‘Lawyer X’ speaks to the interviewer, he is gradually divested of the attributes of his professional and personal identity – his pen, his beard, his prayer beads (!), and lawyer’s suit vanish one by one, and are replaced by a prisoner’s uniform and cap; at the end of the clip, the door of his barred prison cell closes on him, and the ‘news anchor’ reappears to conclude the programme. (No-nonsense TV 2016)

The authors of this animated cartoon allege that rights lawyers fabricate stories of oppression and abuse, falsely blaming the government, and aggrandising themselves. The authors run no risk of being refuted, since the cartoon story is a fiction; but they make some selective reference to fact, as the cartoon includes black-and-white photographs of the protests outside the Jiangxi High Court in the Leping case, as well as other cases handled by rights lawyers suggesting connections with the script of the 709 trials. Fiction with an admixture of facts, a fictitious, discrediting ‘self-description’ combined with the imagery of crime and punishment come to substitute for debate about rights lawyer advocacy. The authorities can easily afford the substitution, since they either control the protagonist rights lawyers, or they at least control any legal process through which their narrative could be challenged.³⁴

Another video titled ‘Colour Revolution’ distributed in the week of the 709 trials, visually links images of the lawyers in court and participating in demonstrations with images of U.S. warfare in Iraq, Syrian refugees stranded in Europe (China Digital Times 2016). Combining dramatic images with stirring music, it suggests that the lawyers were part of a

³³ This can be read as a reference to cases like the ‘Fan Mugen’ one discussed above.

³⁴ Rights defenders did make use of the cartoon to come up with a ‘Ten Principles of Judging’ cartoon that substituted the spoken words and subtitles; but it is unclear how many viewers this cartoon was able to reach. [Cartoon on file with author].

U.S. based plot to subvert China. Romanticising political power, it also reassures viewers that the country will be kept safe under the guidance of the Party, concluding:

‘... year after year, the western forces, led by the U.S., under the banner of democracy, freedom and rule of law, create social contradictions in targeted countries with the intention to overthrow governments. Their slogans are loud, their lies are beautiful; but they will not become facts.’ (China Digital Times 2016) ³⁵

Similarly, other audio-visual and textual output aimed to portray foreign involvement in or support for Chinese rights advocacy as subversive infiltration by China’s foreign enemies. (Wu Dao Guang 2016; ChinaChange 2016)

A few months later, in January 2017, lawyer Li Chunfu, held since September 2015, was released after over 500 days ‘residential surveillance in a designated location’ with signs of serious mental illness (Wang 2016); and lawyer Xie Yang, when finally able to meet a defence lawyer appointed for him by his family, provided a detailed account of his torture to this lawyer, who decided to publish the news. (Xie and Chen 2017)

As the months passed, one after another lawyer disclosed details of how they had been treated. One lawyer, released after six months, commented that he had effectively been forcibly disappeared: held in a locked room with the blinds down, under round-the-clock surveillance by two guards, and subject to seemingly endless interrogation by interrogators from the domestic security division of the police. He was released only after he provided a ‘confession,’ ‘statement of repentance’ and promises to desist from advocacy in future, and read these out aloud before a camera. He was asked to state

‘...That I was doing all these things in order to defame [抹黑] the CCP; and also to incite subversion of the CCP -- that I had worked as a human rights lawyer in order to incite subversion of the government. [Laughs.] Later I privately told [the interrogators], “look, I am not that ambitious! I wasn’t thinking that much when legally representing clients.” But I had to say these things, because otherwise, they’d have made a mistake in handling my case [i.e. in detaining the lawyer on suspicion of inciting subversion].’ (Conversation #120-16-1)

This lawyer was released only after he read his ‘confession,’ ‘statement of repentance’ and promises to desist from advocacy in future out aloud before a camera. (Conversation #120-16-1)

In the summer of 2017, further details began to emerge. Wang Yu, still held under house arrest in a remote location and virtually isolated from friends and colleagues (Conversation #135-17-1), went public with some details about her experience; including the fact that she had been temporarily locked up in a small cage, denied food, and beaten (Wang 2017). Some ten months later, she was to give an even fuller account of the ordeal preceding her August 2016 ‘interview,’ including the many rehearsals and versions that had to be produced until the authorities were satisfied. (ChinaChange 2018)

³⁵ At 2’02’’ this clip shows Tu Fu and others in front of Jiangxi High Court holding a banner with the words ‘Jiangxi Court: Lawyers Demand Access To Case Files’; but their banner is so twisted it is hardly legible. (China Digital Times 2016)

Concurrently, details began to emerge of a – for human rights lawyers - novel technique of forcibly drugging detainees, telling them that they were taking ‘medication.’ The use of such fear techniques reminds us that any contestation of the official ‘reports’ and propaganda occurred on unequal terms and at great personal sacrifice.

Lawyer Xie Yanyi, for example, commented as follows on his experience.

‘While in Tianjin, nearly all of the 709 detainees, as I’ve since learned, were forced to take medicine. Every day a physician would bring the medicine, and every time they would shine a flashlight in my throat to make sure I’d swallowed. It was about four white pills each time. They said I had elevated transaminases and that it could be a problem with my liver. But I’m a vegetarian. I don’t smoke, I don’t drink. I’m in good health and haven’t had any health problems. I’m also not in the habit of taking medicine. ... I tried reasoning with them several times and refused to take the medicine. Then the physician, the discipline officer and the warden had to come force feed the pills to me. I had no choice but give in. After about two months the medicine stopped.’ (Xie 2017)

Another lawyer who had also been forcibly drugged (being forced to take pills) commented as follows on this practice.

‘It made you think you were finished this time. Mentally, it was [the scariest], because you couldn’t know [what you’d been given] and so you thought, for sure they want to kill you. You won’t get out of here alive. It was only in there that I understood what torture really was.’ (Pils 2017)

This lawyer also disclosed that the trial they were subjected to had been carefully scripted and rehearsed several times before being ‘held.’ (Pils 2017)

In an apparent effort to mitigate the public impact of these revelations and to stop the human rights lawyer community from further campaigning on this issue, the authorities began to lock up lawyers who had worked on their disclosure. In November 2016, Lawyer Jiang Tianyong, a veteran human rights lawyer who had participated in the Jiansanjiaing campaign discussed earlier on, and a close friend of some of the original targets of the 709 Crackdown, was detained on suspicion of having helped to ‘fabricate’ Xie Yang’s reports. He too was put through televised ‘interviews,’ during which he ‘confessed,’ and a television trial, which was held in August 2017 (Xie 2017), followed by his conviction and sentence to two years’ imprisonment in November 2017. (Rauhala and Denver 2017)

Jiang’s trial vividly enacted the power relationship between the defendant and the representatives of the legal process in the context of contested propaganda. The authorities not only reduced him to answering questions in a manner suggesting that like earlier ones, the trial had been scripted and rehearsed. The presiding judge Liu Zhen and judges Su Nanyang and Liu Ge, prosecutors Yu Junwei and Wu Fei, and defence lawyers Yang Jieli and Zhen Jie, too, appeared to be largely reading from a script full of official jargon, with only minimal improvisation.³⁶

³⁶ A monitor apparently showing a rolling ‘transcript’ of what is said at the hearing was placed in front of Jiang, who kept glancing at it while speaking.

- Prosecutor: ‘What was the content of the training [you received abroad]?’
- Jiang: ‘Mostly it was about the *western constitutionalist system of the capitalist classes* [xifang zichan jieji xianzheng zhidu]. It truly made me...think that in our country they also should realise the so-called constitutionalist system.’
- Prosecutor: ‘How did these trainings affect you?’
- Jiang: ‘Well, they made me think – they made me hope that in our country, the *western constitutionalist system of the capitalist classes* could also be implemented. They made me hope that our country’s current political system could change. As a result, this made me – later it made me *attack the government and judicial authorities*.’
- Prosecutor: ‘Truthfully summarise your public incitement to subvert the government.’
- Jiang: ‘I used the internet and social media tools such as Twitter, Weibo and so on to publish texts that *attacked the government and judicial authorities*, and to incite the populace [minzhong] – the online populace [wangshang de minzhong] – I mean, the netizens [wangmin] – I misled them into *hating our country’s current social system* and to make them also develop *thoughts of dissatisfaction with the current system* and hopes of changing the political system, similar to my own, and to pursue the goal of overturning – of *subverting the current social system*.’³⁷ (Boxun 2017, emphases added)

Similarly, in the written ‘statement’ read out by Prosecutor Yu Junwei at the trial hearing (one of 74 statements, according to the Prosecutor), Jiang stated, inter alia,

‘My *active anti-Party and anti-government behaviour* [jiji zhudong de fandang fan zhengfu xingwei] also drew attention from certain foreign media, human rights officials in the diplomatic services, and foreign organisations – that is, anti-China organisations...Especially after the “Jiansanjiang Incident,” I fully realised how the *foreign anti-China forces* [jingwai fanhua shili] through their campaign to bring down the [internet] wall [tuiqiang yundong] were seeking to *subvert the leadership of the Chinese Communist Party* [dianfu Zhongguo gongchandang de lingdao]; yet I still accommodated them by running so-called “programmes” with funding from foreign organisations, engaging in *anti-Party and anti-government activities*.’ (Boxun 2017: 38’00’)

³⁷ The ‘defence’ lawyers only provide some statements in mitigation, for example, by suggesting that the effect of Jiang’s speech was more limited than suggested and that he was lacking in intention to incite subversion during certain time periods. (Boxun 2017, emphases added)

In his prepared concluding statement, Jiang, like other 709 defendants, said that he ‘deeply repented’ his criminal actions; that his rights had been respected; and that the authorities had looked after him very well during his incarceration; he made no mention of the fact that he was held incommunicado. He expressed his hope that other ‘so-called rights defenders and rights defence lawyers will draw a lesson from my case.’(Boxun 2017: 2’21’’40’’’) Jiang’s use of official vocabulary in these passages was alien to his normal way of speaking and manner of thinking. As his wife, watching the unfolding trial from the United States where she has fled with their daughter, observed (and as the author thought, too), it showed an unsettlingly altered person. (Yang 2017)

As of this writing, the Crackdown continues, and it also continues to generate propaganda and contestation. New criminal investigation detentions have taken place. They have targeted Yu Wensheng, for example, a lawyer whom Wang Yu had defended when he was detained and brutally tortured (Jacobs and Buckley 2015), and who had tried to act on her behalf during the 709 Crackdown, as well as the lawyer who tried to be Lawyer Yu’s defence lawyer when he was detained in January 2018, only to be detained herself. (Cheung 2017) None of the victims of the Crackdown could be described as genuinely free, as even those released are closely monitored and confined. Some of the victims have received lasting damage to their physical or mental health. One of them, not long before their own detention, observed that one of the hardest things he was experiencing was a disturbing inability to be afraid. (Conversation #130-17-1) One of the first lawyers to be detained in July 2015, Wang Quanzhang, has disappeared entirely. (BBC 2018).³⁸

Analysing the turn to public repression: political emotion and normative rationality

As I have so far argued, innovative rights advocacy has at times been able to mount real political challenges against Chinese government abuses, even though it has resulted in only a handful of legal victories. The 709 Crackdown can be understood as a response to this more fluid, expressive, sophisticated human rights advocacy. Seen as a process, the 709 Crackdown and trials discussed here resemble neither the immediately preceding Reform and Opening era nor the persecutions of the Mao era.

In some ways, the terse and formulaic official documents, wooden performances, and spuriousness of the ‘charges’ and ‘convictions,’ of the 709 trials recalled earlier cases of human rights lawyers convicted of inciting subversion and other crimes in the Reform and Opening era (or more precisely, in the post-June-Fourth era). Like in earlier cases, the authorities convicted the defendants of ‘subversion’ and ‘inciting subversion,’ but used crimes such as enforced disappearance and torture to obtain ‘evidence’ supporting these convictions.³⁹ Like in earlier trial hearings, they claimed to follow procedural rules, but got nowhere near constituting a legal process for the discovery of facts and their correct legal assessment, in line with liberal trial standards. (Fuller 1978)

But in important respects, the 709 trials are markedly different from those of Reform and Opening. Most importantly, earlier trials did not feature televised forced confessions.

³⁸ A defence statement for Wang Quanzhang, on file with author, contains a detailed summary of the case and his circumstances as currently understood.

³⁹ Li Wenzu, the wife of Wang Quanzhang, also commented on how she was put under pressure to persuade Wang Quanzhang to admit guilt and incriminate others. (Apple Daily 2016)

From the trial of the Gang of Four all through the Reform and Opening era, the Party-State at least let defendants speak for themselves, and in most cases allowed them some limited access to lawyers helping them. (Lovell 2017) In earlier cases of human rights defenders, too, such as that of Gao Zhisheng, Xu Zhiyong and his colleagues, Guo Feixiong, and lawyer Tang Jingling, the defendants could plead innocent and make statements to defend themselves, although they might be interrupted and cut short. They could in principle also get help from genuine criminal defence lawyers, even though their access to them was delayed. Defence lawyers and the defendants' families were harassed and persecuted (no change in this regard); but they were not vilified publicly; and reporting of the trials and criminal convictions was generally kept to a terse minimum, very different from the TV spectacles put on in the context of the 709 Crackdown.

In yet other ways, the 709 trials also resemble twentieth century show trials,⁴⁰ or in Kirchheimer's (1961) account of the political trial, 'the use of legal procedure for political ends.' They were scripted and rehearsed, making the defendants powerless participants in their own denunciation. They were public only in one way – they had an audience (Clarke and Feinerman 1995), and they were clearly used for political purposes. In their generic depiction of enemies of society and the enactment of a politically approved view, they could remind one of totalitarian show trials and propaganda.

But, as noted earlier on, the 709 trials and surrounding reporting and propaganda showed the state in a different light from earlier show trials. There were no thundering judges or prosecutors enacting the rage of the people, like in the Freisler court or in Stalin's or Mao's show trials, which enacted spectacles of frightening, crushing Party-State power. The trials also occurred in an entirely different communicative environment from that of the twentieth century. Most importantly, through the social media, the official reporting on these show trials could be disseminated – but it could also be challenged almost instantly and both in and outside China.

The 709 Crackdown therefore calls for a broader analysis. The changes in the style of advocacy, as well as repression, observed in earlier sections of this essay are not only causally related to one another. They also require to be interpreted in light of broader, political and legal shifts in the Xi Jinping era. As I argue in the following, the 709 Crackdown reflects a reconceptualization of law and governance, as well as the deliberate use of emotive repression. It also upsets the idea of truth and its function as a regulative ideal in legal-political public discourse.

A first aspect to be discussed is that as numerous law and governance reforms of the 'Reform and Opening' era reflected liberal principles, repression was in many ways hidden during this era; only when rights advocates intervened did it become more widely visible, as in the Jiansanjiang case. In the 709 Crackdown, this began to change. While the Party-State at times still hid its abuses and persisted in claiming that the process was in accordance with criminal procedure law, at other times, it seemed as though the authorities wanted to make a point of having the power to violate their victims' legal rights. For example, as discussed, it displayed Lawyer Zhou Shifeng just a few days after his detention in a manner flagrantly violating the presumption of innocence and strongly suggesting that he had been forced to

⁴⁰ In the phrase coined in the 1930s, according to the Oxford English Dictionary: 'a judicial trial held in public with the intention of influencing or satisfying public opinion, rather than of ensuring justice. See also Ma (2012) on the Bo Xilai and Gu Kailai trials, which might be said to have revived show trials.

‘confess’; yet it went to some length to ensure an appearance of lawfulness at his trial several months later.

Practices of alternately following and ignoring procedural legal principles might indicate mere inconsistency. But this would not explain why the authorities decided to depart from their earlier practice of hiding abuse, and why they chose to display the 709 defendants while abusing their rights, when it must have been clear to them what outrage and international criticism these displays would attract. It is more plausible that alternating between paying lip-service to legality and showing contempt for legality is important to the Party-State’s new use of the ‘legal’ process, as projecting, not in any way limiting, public power, along Carl-Schmittian lines. (Schmitt 1922) As Vinx has argued, legal norms cannot, according to Schmitt, govern extreme cases of exception – and what constitutes such exceptional cases is for the sovereign to decide. In other words, governments may ‘switch law on and off’ as it sees fit. (Vinx 2014)

The same shift of attitude can be discerned in several steps the Party-State has taken since Xi Jinping’s assumption of his office to undermine not only practices related to right protection but also the very idea of respect for basic rights and related liberal and democratic values. In 2013, the Party-issued Document Number Nine dismissed the very idea of universal values. (ChinaFile 2013)⁴¹ In 2014, making this logic more explicit, the Party announced that ‘Party Leadership and Socialist Rule of Law are identical;’ (CCP 2014; Clarke 2014; Peerenboom 2015) a Carl-Schmittian position echoing attempts by conservative, nationalist scholars such as Jiang Shigong to explain party leadership as a fact foundational to, rather than disturbing, the constitutional order. (Jiang 2010) The new 2015 National Security Law framed the struggle for security as one against foreign and domestic enemies, including perceived ‘enemy forces’ within wider Chinese society as well as those considered disloyal within the Party. (e.g. Article 2) Also, Article 309 of the Criminal Law, as revised in 2015, prohibited

‘insulting, defaming or threatening judicial personnel or litigation participants, and not heeding the court’s admonitions, seriously disrupting courtroom order’ as well as ‘other conduct seriously disrupting court order.’

And a Party ‘Opinion’ issued in late 2015 announced that lawyers would in future be expected to provide ‘volunteer’ services in litigation-related petitioning work.⁴² Volunteers so recruited would ‘persuade’ petitioners ‘*to submit to the decision and stop bringing complaints;*’ or at most, if there was any mistake, to ‘*make suggestions to the governmental and legal authorities* so as to propitiate the matter getting resolved through the [proper] legal procedure.’ (Party Central Political-Legal Committee 2015) (Emphases added) In other words, they would be expected to help the government conciliate their *pro bono* clients.⁴³

⁴¹ Arguably anticipating this shift under Xi Jinping an earlier change to the criminal procedure law, effective from 2013, created rules on ‘surveillance in a designated place,’ which suspended crucial protections for suspects and the investigation stage of the criminal process. (Chinese Human Rights Defenders 2015)

⁴² 中央政法委《关于建立律师参与化解和代理涉法涉诉信访案件制度的意见(试行)》[Party Central Political-Legal Committee Opinion on Establishing a System for Lawyers to Participate in Resolving and Acting as Representatives in Litigation-Related Petitioning Cases (Trial Version)] (10 November 2015), available at <http://www.moj.gov.cn/index/content/2015-11/10/content_6348175.htm?node=7337>.

⁴³ This would bring China (further) into conflict with the UN Basic Principles on the Role of Lawyers (1990).

In 2016, the Foreign NGO Management Law followed this trend by treating foreign civil society organisations as, in principle, suspect. (Lubman 2016; Wong 2016) In early 2018, finally, the Constitution was changed to extend the presidential term of office: an important change of the rules that (as observers were quick to point out) removed one of the very few, quite primitive, yet crucial mechanisms the Party had put in place to limit the concentration of power. (Rudd 2018)

In sum, the rejection of liberal ideas, the heightening of ‘national security,’ the weakening of civil society organisations and the legal profession, and the further concentration and perpetuation of political power reflected in these new rhetoric and legal changes are important aspects of the wider shift that has taken place under Xi Jinping. The 709 Crackdown must be seen in conjunction with them. As it televises and thereby advertises its use of arbitrary means for repressive purposes, the Party-State also presents itself more and more in the image of a ‘Dual State’ in the sense of the concept developed by Ernst Fraenkel (1941). The conception of law employed by dual states, just because it explicitly subordinates law to political power, is not coherent with the idea of *rational* normativity (*Vernunftrecht*).⁴⁴

Xu Youyu, the historian and Cultural Revolution scholar, echoes this point. Asked if there is a ‘China model’ being developed, he comments that while the leadership claims to have ideas, it does not really have a coherent model of governance. (Tang 2017) Part of Xu’s analysis relies on the repressive methods employed by the Party-State under Xi, which he compares to fascist but also Stalinist methods. They not only depart from the Reform and Opening era but also do not return to the Mao era of mass movements; they can instead, Xu argues, be compared to fascist and Stalinist methods.⁴⁵ The current Party-State uses neither class nor race to create divisions but demands absolute loyalty in Yu’s analysis: failing to show absolute loyalty means absolute disloyalty. (Tang 2017)

Rationality, then, is diminished in the Xi era, along with legal normativity. The preceding section examined how the internet and social media have allowed Chinese human rights lawyers to engage in novel forms of visual and audio-visual advocacy, even though it is not easy to tell if the digital age has empowered human rights advocates and activists in a decisive way, since authoritarian systems have also been able to harness this power.⁴⁶ As the 709 Crackdown illustrates, the Party-State in its response to novel forms of advocacy has made full use of and reciprocated innovative, visual and social media techniques. (brady 2007; U.S.-China Institute 2015; Banurski 2016)

A second aspect, closely related to the suppression of normative rationality, is the use of smart techniques for what might be characterised as a form of emotive repression, or a practice of public, repressive, emotive politics. As noted, repression in the 709 Crackdown extensively used audio-visual media to vilify the very idea of principled opposition to the current Party-State system.

⁴⁴ Jan-Werner Müller (1999) has argued that Schmitt concurrently used ‘an objective, cold mode that claims to discover the hard truths about politics, and a feverish expressionism which aims to identify the enemy and even to incite hatred.’

⁴⁵ In this interview, Xu also points to various differences with Nazi Germany (Tang 2017)

⁴⁶ As noted earlier, Rebecca MacKinnon, for example, has used the phrase ‘networked authoritarianism’ to describe a form of governance where people can ‘call attention to social problems or injustices and even manage to have an impact on government policies,’ but not advocate fundamental change of the system, and where paid individuals pose as citizen participants in online public debates. (MacKinnon 2011; Mokhtad and Monshipouri 2016: 5; Yang 2009; Svensson 2013; Svensson 2016)

One might primarily expect displays of frightful power, of the atomised nothingness of the individual who has dared to resist, from the propaganda of a neo-totalitarian system. One might think, for example, of the Nazi German Freisler court's depictions of raging humiliation of its 'traitors' standing trial.⁴⁷ Yet in the 709 propaganda, the fearsome power of the state is not predominantly what we are meant to see. While being shown some courtroom scenes in which an average-sized human rights defender defendant is outsized by the large, muscular court police officers flanking him, the trial propaganda videos mainly project the impersonal, incorruptible and correct functioning of the legal process and its main Party-State actors, the court, prosecution and compliant 'defence lawyers.' Many particularly 'touching' scenes in official video recordings, by contrast, involve close-ups of the 'culprits' breaking up and expressing feelings of guilt, remorse, repentance, and gratitude, as discussed earlier on.

The message such enactments seem to send is therefore not so much about the devastating power of the Party-State that can persecute and destroy, as about the benevolence of the Party-State that allows the repentant to confess and reaffirm their loyalty. It tells audiences, it seems, that they must not leave the fold of obedience and loyalty that is expected of them, as the price for security. Televising 'confessions' and self-criticisms amplifies these effects, but also mitigates them by suggesting that a return into the fold of Party-State care is possible.⁴⁸

In this context, the terrors the authorities hold in store for their 'enemies' are shown only indirectly. They are expressed in the language the 'culprits' such as Wang Yu and Jiang Tianyong have been forced to use. Some of the traces of these terrors are displayed, as when Wang Yu and her husband and fellow lawyer Bao Longjun are shown to break down over the news about their son, or when recent torture victims are shown in a state of disorientation, of not being like their former selves.⁴⁹ Televising the defendants' subjugation and coerced cooperation may have unsettling effects, but mainly for those who still put up rational resistance to these displays, for example, by questioning how rights defence lawyers have been made to produce their 'confessions.'

Where human rights defenders are shown as enemies, on the other hand – outside the context of the show trial videos -- their images are mixed with those of foreign enemies and the suffering these produce among victims, in a manner resembling sophisticated (if shameless) contemporary media adverts. In the 'Colour Revolution' video clip, for example, pictures of American soldiers and victims among the populations of Iraq and Syria alternate for mere seconds with images of rights defence lawyers in action, holding up banners, or standing in the courtroom while presenting an argument. Characteristically, in these instances, the rights defenders cannot be heard speaking, and as mentioned earlier on, even the banners they display are not legible.

⁴⁷ Although it appears that these were deemed so offensive to a common sense of fairness and decency that even that regime would not use them for propaganda purposes. Goebbels recognised that the footage produced for the planned film *'Verräter vor dem Volksgericht'* [Traitors before the People's Court] would generate compassion toward the victims, rather than applause for the system that had executed them. (Amann 2004). (The failed resistance movement of 1944 in fact included women and men.)

⁴⁸ As Pruce (2016: 52) points out when considering the uses of images in visual repression contexts, 'Since [such] imagery captures the likeness of individuals and articulates suffering and repression, there is an inherent risk that through its production and dissemination, vulnerability is reproduced as indignity. In the very process of seeking support, frailty may be communicated through stereotypes and motifs that exacerbate humiliation.'

⁴⁹ 'Pain defines reality for the person who suffers it, with all else, even language, being destroyed.' (Scarry 1985)

These findings throw some light on the broader discussion of political emotion, by the evidence they provide on what happens when political emotion is engendered and used by illiberal regimes. In her account of the topic, Martha Nussbaum focuses on the cultivation of desirable political emotions – emotions that ‘take as their object the nation, the nation’s goals, its institutions and leaders, its geography, and one’s fellow citizens seen as fellow inhabitants of a common public space’ --, tempered and scrutinised by critical rationality, in liberal democracies. (Nussbaum 2013: 2) Pointing out ‘that emotions necessarily involve cognitive appraisals, forms of value-laden perception and/or thought directed at an object or objects,’ she argues that in a desirable political system, political emotion complements arguments and general norms. (Nussbaum 2013: 17)

‘[T]he public culture cannot be tepid and passionless, if good principles and institutions are to survive: it must have enough episodes of inclusive love, enough poetry and music, enough access to a spirit of affection and play, that people’s attitudes to one another and the nation they inhabit are not mere dead routine. (Nussbaum 2013: 319-20)

Nothing in the use of emotion in the 709 Crackdown suggests that Nussbaum is wrong about the role of political emotions such as love of country in liberal democracies. But this crackdown reminds us forcefully that the cultivation of political emotion can occur entirely without mitigation by critical rationality. In fact, as the 709 Crackdown reminds us, political emotion is particularly well-suited to abuse by anti-democratic and anti-liberal systems pursuing a romanticisation of their own power.

A third, related, aspect of public repression in the 709 Crackdown is the particular way in which it can upset the belief that truth matters, or inculcate the belief that ‘truth’ is only a matter of power. There can be little doubt, for one thing, that audiences aware of the crackdown’s background or willing to ask critical questions might have been fooled by its false statements, in particular those provided in TV ‘confessions.’⁵⁰ A wider audience, on the other hand, might be willing to accept the force of what one ‘sees with one’s own eyes’ and to trust the ‘evidence’ of their senses without critical reflection.⁵¹ It might be willing to accept the message that the legal process against the State’s enemies was orderly, impersonal, and just, and that repentant culprits could be treated ‘leniently.’ Yet would this have justified the cost and effort associated with staging and producing the 709 trials and surrounding propaganda? After all, the Chinese audience surely already knew that the Party-State must be loved (*ai guo ai dang*), not opposed.

⁵⁰ Towards human rights defenders and their circles, who were broadly aware of the circumstances of their production, the coerced statements of course lacked credibility. They failed – as a social media commentator in one of the chat-groups established amongst human rights defenders noted – to satisfy the criteria of a non-coerced statement. (Message posted 2 August 2016, on file with author) In the author’s longer-term observation, finding out that a rights defender or other oppositional figure has broken down under pressure tends to set off a debate among their supporters – it leaves some looking for exculpatory explanations, while others, distressed, fearful, and angry, tend to recriminate those who broke down. One commentator suggested that Wang Yu, for example, must have been beaten into making her statement ‘correctly’ and that this was why her face looked unnaturally swollen. Screen-shot (2 August 2016) on file with author. These accounts call to mind the use of ‘confessions’ and ‘statements of repentance’ in earlier crackdowns (Pils 2014: chapter 6; see also Guo 2016; Jiang 2016)

⁵¹ Rather like in Václav Havel’s greengrocer example, the official reporting offers an opportunity to those who wish or need to take it up, to ‘conceal from themselves the low origins of their obedience.’ (Havel 1978)

The propaganda's further, underlying message lies in its emphatic assertions of the truth of their content and denunciation of challenges as lies, juxtaposing false 'truths' with false accusations of lying. Not only are the defendants compelled to admit the untruth of their truthful allegations as rights advocates -- Lawyer Jiang Tianyong, for example, was forced to state that he lied about the 709 Crackdown, and a central element of the crime he is accused of, inciting subversion of the power of the state, consists in 'slander.' Also, the accompanying propaganda outputs, such as the animated cartoon and the 'Colour Revolution' video-clip, keep making references to the untruthfulness of those they cast as enemies, and the Party-State's resolute struggle against them. The fact that defendants were forced to renounce their principles and, at least in some cases, to lie -- for example, in Lawyer Jiang's case, about 'fabricating' his colleague's account of torture -- was not merely irrelevant to the effectiveness of the message being sent. On the contrary, it was particularly powerful by attacking their public persona and political identity. This in turn also helped the Party-State project its 'warning' against trying to resist to other rights defenders, showing how disturbingly resisters would be segregated as outlaws.

In sum, taken together, the audio-visual content produced by the Party-State in the context of the 709 Crackdown is an example of overt and publicly manifest repression.⁵² In the case observed, repression makes particular use of emotions. Of course, repression is generally associated with the idea of subduing someone or something by force (Oxford English Dictionary), whereas audio-visual content does not apply physical force. In the examples considered, however, the images captured the results of state-orchestrated violence; and they constructed, propagated and imposed a narrative of the 709 cases that no one was allowed to question.⁵³

In the three aspects discussed here -- anti-liberal rules and practices, the use of emotion, and the upsetting of truth -- the sophisticated repression techniques used contrast sharply with the advocacy techniques to which they respond. Propaganda in the context of the 709 Crackdown is not bounded by the rationality of rights-based claims; rather, it creates a fiction that is 'authoritatively' propagated to suppress the truth, undermining the values of authenticity and facticity. (Lifton 1961) It calls to mind the way Hannah Arendt described the central message of the totalitarian system: everything is possible, and nothing is true. (Arendt 1973)

Conclusion

This article has argued that the shift from verbal to visual and audio-visual communication that is a central feature of the 21st century has affected not only the way Chinese rights defenders advocate 'bottom up,' but also the way the Chinese government communicates repressive messages 'top down.' In both cases, this shift is a move from rationality to emotionality. However, visual human rights advocacy remains largely bounded by the rationality of what it defends: rights, conceived in liberal terms.

⁵² A taxonomy of forms of repression is provided by Jennifer Earl (2003:48).

⁵³ The case of Jiang Tianyong and other lawyers defending 709 detainees illustrated that those who questioned it risked being caught up in the repressive cycle of the 709 Crackdown themselves. Another later victim of this cycle is Lawyer Li Yuhan (李昱函) became the most recent victim. (Frontline Defenders 2017)

By contrast, the overt and public, physical, verbal, visual and audio-visual forms of repression discussed here convey a political message that undermines the legal protection of individuals from abuses, and thus also undermines the rule of law. The production of these messages is part of a move toward smarter and more effective techniques of repression. Producing and exploiting emotions such as fear, it helps the projection of messages that supplant the rationalist and liberal conception of law that characterised the Reform and Opening era with an anti-rationalist and anti-liberal romanticisation of power. Rather than diminishing the role of law as ideologically illegitimate, as the Party did under Mao, the current regime seeks to integrate repression into the legal system, locking up and torturing more and more critics, and benefiting from new methods of generating and disseminating its repressive messages, as seen in the 709 Crackdown.

In doing so, the system produces effects beyond China's borders, not only because the immediate targets of repression include foreigners, but also because repressive messages, especially non-verbal ones, travel so easily across national borders.⁵⁴ This transnational dimension of repression creates special risks of succumbing to the repressive mechanisms that already operate domestically, as observed above. In the context of the 709 Crackdown, for example, when in 2016, the American Bar Association (ABA) hesitated to make a statement on the 709 Crackdown on human rights lawyers, it seemed plausible that it might have taken into account the risks to its established 'Rule of Law Initiative' programmes in China, an impression that was compounded when the ABA withdrew its offer to publish a Chinese human rights lawyer's book. (Fish 2015) Following public criticism, the ABA awarded lawyer Wang Yu a human rights prize, which, as discussed, led to its being cast as an enemy organisation in a scripted interview with Wang Yu. (ChinaChange 2016)⁵⁵ Similar dynamics have played out on many occasions, reinforced by new rules apparently intended to create divides between acceptable, but heavily controlled, and vilified and rejected foreign civil society organisations.

Yet it remains difficult to see how the Chinese Party-State could win a war on civil society, or against the legal principles it recognised, at least on paper, in an earlier era. In part at least, this would be difficult due to the same transnational interconnectedness that also facilitates repression. While resembling 20th century ideas and practices in some respects, the system's novel repressive practices occur in a globally more inter-connected world and in a far less centrally controlled communicative environment. The discussion of this crackdown here, for example, has also made frequent references to the work of organisations gathering and disseminating information on this crackdown. These not only helped to keep individuated advocacy on behalf of the 709 detainees alive; they also keep challenging the official narrative. Because both repression and advocacy now move more easily across national borders, civil society in and outside China can resist its divisive dynamic by refusing to be cast as enemies of the system that persecutes its human rights defenders.

⁵⁴ In the instances discussed here, especially that of Peter Dahlin's 'TV confession,' the message was verbal and audio-visual. See also Ludwig and Walker (2017).

⁵⁵ The ABA subsequently dissolved its office in mainland China.

BIBLIOGRAPHY

Articles, books, public media reports

Amann, Klaus. 2004. *Die Geschichte des Filmmaterials von Prozess und Hinrichtung der Männer des 20. Juli 1944* [The film footage on the trials and executions of the Men of 20 July 1944], Deutschlandfunk 17 July 2004, http://www.deutschlandfunk.de/die-geschichte-des-filmmaterials-von-prozess-und-761.de.html?dram:article_id=113629.

Anonymous. 2016. 乐平一案两凶之真凶自赎 [Self-redemption of the Real Killer in the Case of the Leping Five], on file with author independent documentary, December 2012, draft on file with author.

Apple Daily. 2016. 北京律師王全璋不認罪 家人遭國保騷擾 [Beijing lawyer Wang Quanzhang refusing to admit guilt – family], 14 August 2016, <http://hk.apple.nextmedia.com/realtime/china/20160814/55500830>

Arendt, Hannah. 1973. *The Origins of Totalitarianism* (New York: Harcourt, Brace, Jovanovich, 1973).

Branigan, Tania. 2011. ‘Crackdown in China spreads terror among dissidents, *The Guardian*, 31 March 2011, <https://www.theguardian.com/world/2011/mar/31/china-crackdown-on-activists-arrests-disappearances>

Bandurski, David. 2016. Three Cheers for China’s Cyber-Volunteers, *China Media Project*, 13 April 2016, <http://cmp.hku.hk/2016/04/13/39684/>.

BBC 3. 2016. NYPD – Biggest Gang in New York?, Documentary, first screened 12 May 2016, <http://www.bbc.co.uk/programmes/p040v890>

BBC. 2018. China human rights: Wife marches for 'vanished' husband, 4 April 2018, <http://www.bbc.co.uk/news/world-asia-china-43644599> .

Boxun TV. 2015. 目击者拍摄的庆安徐纯合被击毙片段 [Eyewitness video-clip of assault on Xu Chunhe in Qing’an] *Youtube*, 6 May 2015, <https://www.youtube.com/watch?v=UAqvYWql1ewo>.

Boxun. 2017. 著名维权律师江天勇案一审公开开庭审理（完整集合版） [Trial of famous rights lawyer Jiang Tianyong (consolidated complete version)], *Youtube*, 23 August 2017, <https://www.youtube.com/watch?v=ln7CoJZdFP4>

Boxun. 2014. 阵容庞大：范木根自卫杀人案和维稳拆迁研讨会/视频 [Great turnout: Seminar on the self-defence homicide case of Fan Mugen and stability-preservation style demolition and relocation], 22 February 2014 at <http://news.boxun.com/news/gb/china/2014/02/201402220159.shtml#.UzxWtLmPI5p>

Bradner, Eric. 2017. Conway: Trump White House offered “alternative facts” about crowd size, 23 January 2017, *CNN Politics*, <http://edition.cnn.com/2017/01/22/politics/kellyanne-conway-alternative-facts/index.html>

Brady, Anne Marie. 2007. *Marketing Dictatorship: Propaganda and Thought Work in Contemporary China*, Rowman and Littlefields, 2007;

Buckley, Chris. 2015. Week of TV Trials in China Signals New Phase in Attack on Rights, *The New York Times*, 5 August 2016, <http://www.nytimes.com/2016/08/06/world/asia/china-trial-activists-lawyers.html>

Cao Yin. 2015. Lawyers “tried to influence verdicts”, 13 July 2015, http://www.chinadaily.com.cn/china/2015-07/13/content_21255261.htm

Chen Hongyan (陈鸿燕). 2016. 周世锋涉嫌颠覆国家政权案一审开庭 当庭承认犯罪事实 [At first instance hearing of subversion of government power case against Zhou Shifeng, he admits the

fact of the crime], *Xinhua Net*, 4 August 2016, available at <http://www.chinanews.com/sh/2016/08-04/7961539.shtml>.

Cheung, Karen (2017), 'Chinese Lawyer Li Yuhan detained by public security bureau, concern groups say,' *Hong Kong Free Press*, 2 November 2017, <https://www.hongkongfp.com/2017/11/02/chinese-lawyer-li-yuhan-detained-public-security-bureau-concern-groups-say/>

China Digital Times. 2016. Video warns of foreign-backed "Color Revolution," 3 August 2016, <http://chinadigitaltimes.net/2016/08/hk-activist-branded-us-backed-separatist-govt-video/> hyper-linking to '颜色革命 /Color Revolution, <https://www.youtube.com/watch?v=8qBt-i9ErSY> has been translated into English at, .

China Human Rights Lawyers Concern Group. 2016. Report on the 709 Crackdown. 5 July 2016, <http://www.chrlawyers.hk/sites/default/files/booklet-b-content-english-output.pdf>.

China Law Translate. 2015. People's Republic of China Criminal Law (amended 2015), English version at <http://chinalawtranslate.com/%e4%b8%ad%e5%8d%8e%e4%ba%ba%e6%b0%91%e5%85%b1%e5%92%8c%e5%9b%bd%e5%88%91%e6%b3%95%ef%bc%882015%e5%b9%b4%e4%bf%ae%e6%ad%a3%ef%bc%89/?lang=en>

ChinaChange. 2016a. China Smears Foreign Diplomats in Another 4-Minute Video, As Trials of Rights Lawyers and Activists Continue in Tianjin, 3 August 2016, <https://chinachange.org/2016/08/04/china-smears-foreign-diplomats-in-another-4-minute-video-as-trials-of-rights-lawyers-and-activists-continue-in-tianjin/>.

ChinaChange. 2016b. To American Bar Association With Regard to ABA Human Rights Award to Wang Yu, 6 August 2016, <https://chinachange.org/2016/08/06/to-american-bar-association-with-regard-to-aba-human-rights-award-to-wang-yu/>.

ChinaChange. 2018. How Lawyer Wang Yu Was Made to Denounce the American Bar Association's Human Rights Award in 2016, 9 May 2018, <https://chinachange.org/2018/05/09/how-lawyer-wang-yu-was-made-to-denounce-the-american-bar-associations-human-rights-award-in-2016/>.

ChinaFile. 2013. Document No. 9: a ChinaFile Translation, 11 August 2013, <http://www.chinafile.com/document-9-chinafile-translation>.

China Human Rights Lawyers Concern Group Facebook account, posting of 5 August 2016, <https://es-la.facebook.com/chrlcg/posts/1755193421360278:0>

Chinese Human Rights Defenders. 2015a. Joint Civil Society Report Submitted to UN Committee against Torture – October 2015, available at <<https://www.nchrd.org/2015/11/joint-civil-society-report-submitted-to-un-committee-against-torture-october-2015/>>.

Chinese Human Rights Defenders. 2015b. End Violence Against Human Rights Lawyers -- 5 October 2015, <https://www.nchrd.org/2015/10/end-violence-against-human-rights-lawyers/>

Clarke, Donald C. and Feinerman, James V. 1995. Antagonistic Contradictions: Criminal Law and Human Rights in China, 141 *The China Quarterly* (1995), at <http://docs.law.gwu.edu/facweb/dclarke/pubs/Clarke%20and%20Feinerman,%20Antagonistic%20Contradictions.pdf>

Clarke, Donald C. 2014. The Fourth Plenum's "Decision": My Take, *Chinese Law Prof Blog*, 29 October 2014, http://lawprofessors.typepad.com/china_law_prof_blog/2014/10/the-fourth-plenums-decision-my-take.html;

Cohen, Jerome A. 2017. More on rights lawyer Wang Yu's "confession and release" and China's revival of "brainwashing" practice, *Jerry's Blog on recent developments in the rule of law in Asia and China*, 3 August 2016, available at <http://www.jeromecohen.net/jerrys-blog/2016/8/3/more-on-rights-lawyer-wang-yus-confession-and-release-and-chinas-revival-of-brainwashing-practice>.

Cohen, Jerome A., and Eva Pils. 2010. Rules and Reality. New guidelines to ban coerced confessions will be tested in a case before China's top court, *South China Morning Post*, 2 September 2010 (in Chinese: ‘柯恩专栏 – 刑事司法存在两个中国,’ 中国时报 (China Times), 2 September 2010 at <http://www.usasialaw.org/?p=4102>

Committee to Support Chinese Lawyers. 2011. Legal Advocacy and the 2011 Crackdown in China, 2011, at <http://www.csclawyers.org/advocacy/>

Cullen, Richard and Fu Hualing. 2010. Climbing the *Wei Quan* Ladder: A Radicalising Process for Rights-Protection Lawyers, *The China Quarterly*, <http://journals.cambridge.org/action/displayFulltext?type=1&fid=8243497&jid=CQY&volumeId=205&issueId=-1&aid=8243495>

Dworkin, Ronald. 1985. *A Matter of Principle*, Cambridge, MA: Harvard University Press (Chapter 5, ‘How Law is Like Literature’).

Earl, Jennifer. 2003. Tanks, Tear Gas, and Taxes: Towards a Theory of Movement Repression, 21 *Sociological Theory* (2003) 44-68 at p. 48.

Epoch Times. 2015. A court not righting wrongs is really dark -- Major wrongful death penalty case in Leping! (冤案不平反, 法院真黑暗 / 乐平特大死刑冤案江西高院律师要求阅卷第 7 天). <http://www.epochtimes.com/gb/15/5/28/n4444475.htm>

Evernote (2016), ‘被捕女律师批外国炒作维权事件, 图搞乱中国 [Arrested woman lawyer criticises foreign countries for hyping up rights defence cases and attempting to create havoc in China], ’ 1 August 2016, <https://www.evernote.com/shard/s574/sh/d6cf6fa4-2bac-46d6-acdc-34e0ce4016f2/95c538412cc5d523ffd5bb0d3198dc40>

Feigenson, Neal, and Christina Spiesel. 2009. *Law on Display: The Digital Transformation of Legal Persuasion and Judgment*, New York University Press, New York, 2009

Fenghuang Net. 2015. 天津设立周世锋等案媒体接待中心 服务境外记者 [Tianjin establishes media reception centre for journalists for cases of Zhou Shifeng et al], *Fenghuang Net*, 2 August 2016, http://news.ifeng.com/a/20160802/49706128_0.shtml.

Fifield, Anna. 2015. She was a quiet commercial lawyer. Then China turned against her, *Washington Post*, 18 July 2015, https://www.washingtonpost.com/world/she-was-a-quiet-commercial-lawyer-then-china-turned-against-her/2015/07/18/fe45876c-2b3d-11e5-960f-22c4ba982ed4_story.html

Fish, Isaac Stone. 2015. You have the right to remain silent. Inside the fight over the American Bar Association’s tepid condemnation of Beijing’s crackdown on lawyers and activists, *Foreign Policy*, 23 November 2015, available at http://foreignpolicy.com/2015/11/23/china_american_bar_association_crackdown_human_rights/

Fraenkel, Ernst. 1941. *The Dual State. A Contribution to the Theory of Dictatorship*, translated by E.A. Shils, Oxford University Press, New York, 1941

Frizell, Nell. 2014. Is that leg loaded? Ai Weiwei starts web craze with mysterious “leg-gun” pose, *The Guardian*, 13 June 2014, <http://www.theguardian.com/artanddesign/2014/jun/13/ai-weiwei-leg-gun-photo-instagram-protest-meme>

Frontline Defenders. 2017. Li Yuhang detained Incommunicado by Shenyang Police, 7 November 2017, <https://www.frontlinedefenders.org/en/case/li-yuhan-detained-incommunicado-shenyang-police>.

Fuller, Lon. 1995. The Forms and Limits of Adjudication (1978), chapter one in Freeman, Michael (ed.), *Alternative Dispute Resolution* (New York University Press: New York, 1995);

Global Times. 2016. Rights lawyer asks court not to invite family to subversion trial, 2 August 2016, <http://www.globaltimes.cn/content/998262.shtml>

- Gregory, Sam and Elizabeth Losh. 2012. Remixing human rights: Rethinking civic expression, representation and personal security in online video, *First Monday*, volume 17 no 8 (2012), <http://pear.accc.uic.edu/ojs/index.php/fm/article/viewArticle/4104>.
- Gu Li (古莉). 2015. 中国人大听取“两高报告” 去年中国 700 多人以恐怖或分裂罪获刑 [Chinese NPC audits reports by Supreme Court and Procuracy; last year over 700 persons punished for terrorism or sedition], 13 March 2015 <http://www.chinainperspective.com/ArtShow.aspx?AID=40721>.
- Guo Fenghua (敦风华). 2016. 民间维权远未成功，各方仍须不懈努力——“709”事件相关问题漫谈, *Canyu*, 16 August 2016, <https://www.canyu.org/n122445c6.aspx>;
- Halliday, Terence C. and Sida Liu. 2016. *Criminal Defence in China: The Politics of Lawyers at Work* (Cambridge: Cambridge University Press, 2016).
- Hatton, Celia. 2015. Lawyer: I was tortured by Chinese Police, BBC World News, 15 November 2015, available at <http://www.bbc.co.uk/news/world-asia-34794712>
- Havel, Václav. 1978. *Moc Bezmocných* [The Power of the Powerless], Prague, 1978, published in translation by Jan Vladislav (ed.) *Living in Truth*, Faber and Faber, London and Boston, 1986, pp. 36-122.
- He Weifang. 2013. *In the name of justice: striving for the rule of law in China* , Brookings Institute Press (Washington, 2013).
- He Yang (何杨). 2010. 应急避难所 [*Emergency Shelter*], independent documentary, 2010, at <http://vimeo.com/12677411>
- He Yang(何杨) 2010. 专访朱明勇律师—黑打[*Conversation with Lawyer Zhu Mingyong – unlawful beatings*], August 2010 on the case of Fan Qihang (樊奇杭), at <http://www.vimeo.com/13706954>;
- Hong Kong Free Press. 2016. State TV Confession: Peter Dahlin, 20 January 2016 , <https://www.youtube.com/watch?v=whbgVz4xKww>
- Human Rights in China. 2015. Joint Statement by Chinese Lawyers Demanding Investigation into Beating of Lawyer Xie Yang in Nanning , 18 May 2015, <http://www.hrichina.org/en/citizens-square/joint-statement-chinese-lawyers-demanding-investigation-beating-lawyer-xie-yang> (translation).
- Human Rights in China. 2016. Annotated Excerpts from Hu Shigen and Zhou Shifeng's Trial Transcripts, 12 August 2016, <http://www.hrichina.org/en/annotated-excerpts-hu-shigen-and-zhou-shifengs-trial-transcripts>
- Human Rights Watch. 2015. China: protect lawyers from beatings and harassment, 2 June 2015, <https://www.hrw.org/news/2015/06/25/china-protect-lawyers-beatings-and-harassment>
- Jacobs, Andrew and Chris Buckley. 2015. China Targeting Human Rights Lawyers in a Crackdown, *New York Times*, 22 July 2015, https://www.nytimes.com/2015/07/23/world/asia/china-crackdown-human-rights-lawyers.html?_r=0.
- Jacobs, Andrew. 2015. Conviction Rates Count More in Chinese Justice Than Innocence, *The New York Times*, 13 May 2015, http://www.nytimes.com/2015/05/13/world/asia/conviction-rates-count-more-in-chinese-justice-than-innocence.html?_r=0
- Jehle, Jörg-Martin. 2016. Criminal Justice in Germany – Facts and Figures, *Bundesjustizamt*, https://www.bundesjustizamt.de/DE/SharedDocs/Publikationen/Justizstatistik/Criminal_Justice_Germany_en.pdf?__blob=publicationFile.
- Mnookin, Jennifer L. 2014. Can a Jury Believe What It Sees?, *The New York Times*, 14 July 2014, <http://www.nytimes.com/2014/07/14/opinion/videotaped-confessions-can-be-misleading.html>.
- Jewel, Lucille A. 2009. Through a Glass Darkly: Using Brain Science and Visual Rhetoric to Gain a Professional Perspective on Visual Advocacy, 19 *Southern California Interdisciplinary Law Journal* (2009) pp. 1-85

- Ji Shi (嵇石). 2016. 北京锋锐律所案翟岩民受审 解释家属为何未到庭旁听[Beijing Fengrui law firm's Zhai Yanmin stands trial, explaining why his family did not attend], *Fenghuang Net*, 3 August 2016, http://news.ifeng.com/a/20160803/49706767_0.shtml/;
- Jiang Dunhua (江敦华). 2016. 有关新公民运动的闲言碎语 [Gossip about the New Citizen Movement], *Canyu*, 21 August 2016, <https://canyu.org/n122800c6.aspx>
- Jiang Shigong (强世功). 2010. Written and Unwritten Constitutions: a new approach to the study of constitutional government in China [中国宪法中的不成文宪法——理解中国宪法的新视角], *Modern China* 36 (1): 12-46 (2010), at http://www.lishiyushehui.cn/modules/topic/detail.php?topic_id=282, accessed 27 October, 2013.
- Jiang, Jue. 2016. Legal and Political Rights Advocacy in Wrongful Conviction Death Penalty Cases in China: A Study of the Leping Case of Injustice, 29 *Columbia Journal of Asian Law*, (2016) vol. 2
- Johnson, Ian. 2014. China's Unstoppable Lawyers: an Interview with Teng Biao, *New York Times*, 19 October 2014, <http://www.nybooks.com/blogs/nyrblog/2014/oct/19/china-rights-lawyers-teng-biao/>
- Jun Mai. 2016. How Chinese rights lawyer's courtroom mea culpa went off script, *South China Morning Post*, 22 August 2016, <http://www.scmp.com/news/china/policies-politics/article/2006700/how-chinese-rights-lawyers-courtroom-mea-culpa-went>.
- Justizministerium Nordrhein-Westfalen. 2016. *Strafverfolgungsstatistik* [criminal justice statistics], 2016, https://www.justiz.nrw.de/Gerichte_Behoerden/zahlen_fakten/statistiken/strafrechtspflege/Strafverfolgungsstatistik_2015.pdf.
- Kirchheimer, Otto. 1961. *Political justice: the use of legal procedure for political ends*, Princeton University Press, 1961.
- Lau, Mimi. 2015. 1,000 Chinese lawyers condemn police attack after attorney has clothes ripped off in court, *South China Morning Post*, 7 June 2015
- Legal Daily. 2015. 贵圈真乱--- 一图读懂“维权”圈 [Your Circle is a Real Mess – A graphic explaining the “Rights Defence” Ring], *Legal Daily* (法制日报), 13 July 2015, http://www.legaldaily.com.cn/zt/content/2015-07/13/content_6168094.htm?node=73108; translated and annotated at ChinaLawTranslate, <http://chinalawtranslate.com/lawyer-cases-infographic/?tpedit=1&lang=en>
- Li Hao (李洁). 2014. 艾未未发起“腿枪”运动 讽刺中共更多精彩点击 [Ai Weiwei leg-gun action mocking CCP – further brilliant posts], 18 June 2014 at <http://news.creaders.net/china/2014/06/18/1395784.html>
- Li Qiang (李强). 2016. 维权女律师王宇保释 “不接受”国际人权奖 [Woman rights defence lawyer Wang Yu vows “not to accept” international human rights award], 2 August 2016, <https://www.youtube.com/watch?v=7xe5y1NeWP4>.
- Lifton, Robert Jay. 1961. *Thought Reform and the Psychiatry of Totalism: A Study of 'Brainwashing' in China*, Norton, New York, 1961.
- Liu Juntao and Zhang Yuke (刘军涛、张玉珂). 2016. 天津二中院：周世锋向法院书面请求不希望亲友旁听庭审 [Zhou Shifeng sends written request to court asking that his family attend his trial], *Legal Daily*, 3 August 2016, <http://legal.people.com.cn/n1/2016/0803/c42510-28608968.html>.
- Liu Sida, Lily Liang, and Terence C. Halliday. 2014. The Trial of Li Zhuang: Chinese Lawyers' Collective Action against Populism, *Asian Journal of Law and Society* 1(1): 79-97
- Loewenstein, Karl. 1937. Militant Democracy and Fundamental Rights I, *The American Political Science Review*, Vol. 31 (3), 417-432 (1937).
- Lovell, Julia. 2017. *The Cultural Revolution on Trial*, by Alexander Cook review—a sensational moment in Chinese history, *The Guardian*, 4 March. Accessed 31 March 2018 at

www.theguardian.com/books/2017/mar/04/the-cultural-revolution-on-trial-alexander-cook-review-gang-of-four-china-mao

Luban, David. 1995. Settlements and the Erosion of the Public Realm, (1995) 83 *Georgetown Law Journal* 2619.

Lubman, Stanley. 2016. China's new law on international NGOs – And questions about legal reform, *The Wall Street Journal*, China Real Time Blog, 25 May 2016, available at <http://blogs.wsj.com/chinarealtime/2016/05/25/chinas-new-law-on-international-ngos-and-questions-about-legal-reform/>

Ma Jian. 2012. China's Show Trial of the Century, *Project Syndicate*, 2012, <https://www.project-syndicate.org/commentary/china-s-show-trial-of-the-century-by-ma-jian?barrier=true>

Mackie, Vera. 2014. Putting a face to an issue: visualizing human rights, *Cultural Studies Review*, volume 20 issue no 1 (2014), <http://search.informit.com.au/documentSummary;dn=226065023910348;res=IELLCC>

McConville, Mike, et al. 2011. *Criminal Justice in China: An Empirical Enquiry*, Edward Elgar Publishing, Cheltenham, 2011

McKinnon, Rebecca. 2011. China's "Networked Authoritarianism," *Journal of Democracy* vol. 22 no. 2 (2011), pp 32-46.

Monshipouri, Mahmood (editor). 2016. *Information Politics, Protests, and Human Rights in the Digital Age*, Cambridge University Press, Cambridge, 2016

Müller, Jan-Werner. 1999. Carl Schmitt's method: Between ideology, demonology and myth, *Journal of Political Ideologies*, 4:1, 61-85.

Nesossi, Elisa. 2015. Political opportunities in non-democracies: the case of Chinese *weiquan* lawyers, *The International Journal of Human Rights* (2015), at p. 967 f.

No-nonsense TV (不瞎说 TV). 2016. 揭秘死磕律师群体的那点小秘密 [Revealing those little secrets of the Diehard Lawyer group], *Youtube / Weibo Official Channel*, 2 August 2016, <https://www.youtube.com/watch?v=BO8xp3aTSWk>

Nussbaum, Martha. 2013. *Political Emotions*, Harvard University Press, Cambridge, Mass., 2013.

O'Brien, Kevin and Yanhua Deng. 2015. The reach of the state: Work units, family ties and "harmonious demolition", *The China Journal*, 72 (2015) 1–17

Oxford English Dictionary, entry on 'repression' at <http://www.oxforddictionaries.com/definition/english/repression>.

Oxford English Dictionary, entry on 'show trial,' <http://www.oxforddictionaries.com/definition/english/show-trial>.

Peerenboom, Randall. 2014. Fly High the Banner of Socialist Rule of Law with Chinese Characteristics! What Does the 4th Plenum Decision Mean for Legal Reforms in China?, *The Hague Journal of the Rule of Law*; and comment pieces by Zhu and Pils.

Pils, Eva. 2013. "Disappearing" China's Human Rights Lawyers, in Mike McConville and Eva Pils (editors), *Comparative Perspectives on Criminal Justice in China*, (Cheltenham, Edward Elgar Publishing: 2013) 411-438.

Pils, Eva. 2014. *China's human rights lawyers: advocacy and resistance* (Routledge, 2014) Chapter 4. An example for such experiences is that of land-grabs and housing demolitions.

Pils, Eva. 2017. A new torture in China, *CPI Analysis guest blog*, 10 August 2017, <https://cpianalysis.org/2017/08/10/a-new-torture-in-china/>

Porter, Elizabeth. 2015. Taking Images Seriously, *Columbia Law Review*, Vol. 114, No. 7, pp. 1687-1782

Pruce, Joel. 2016. What does human rights look like, in Mahmood Monshipouri (editor), *Information Politics, Protests, and Human Rights in the Digital Age*, Cambridge University Press, Cambridge, 2016.

Public interest law person (公益法律人, a pseudonym). 2014. 建三江维权全程 24 天日志 [Jiansanjiang, a 24-day Diary], *Human Rights in China*, 14 April 2014, available at <http://www.hrichina.org/chs/gong-min-yan-chang/jian-san-jiang-wei-quan-quan-cheng-24tian-ri-zhi>

Qiao Long (乔龙). 2015. '范木根案开庭律师被抓、失踪; 亲友、证人被抓被打 [Lawyers at trial hearing of Fan Mugen detained, gone missing; family, friends and witnesses detained and beaten]; <http://www.rfa.org/mandarin/yataibaodao/renquanfazhi/q11-02042015103249.html>;

Rauhala, Emily and Simon Denyer. 2017. China jails yet another human rights lawyer in ongoing crackdown on dissent, *Washington Post*, 21 November 2017, https://www.washingtonpost.com/world/another-chinese-human-rights-lawyer-is-going-to-jail/2017/11/20/5af09cbc-ce5d-11e7-8447-3d80b84bebad_story.html?utm_term=.07e2c77083f0

Rudd, Kevin. 2018. What the West Doesn't Get About Xi Jinping, *New York Times*, 20 March 2018, <https://www.nytimes.com/2018/03/20/opinion/xi-jinping-china-west.html>

Scarry, Elaine. 1985. *The Body in Pain: The making and unmaking of the world* (New York/Oxford: 1985), Chapter 1: 'Pain defines reality for the person who suffers it, with all else, even language, being destroyed.'

Schmitt, Carl. 1922 (2005). *Political Theology: Four Chapters on the Concept of Sovereignty*. George Schwab (translation). Chicago: University of Chicago, p.5.

Svensson, Marina. 2013. Reporting Law and Injustices: Investigative Journalists and the Legal System, in Elin Saether, Marina Svensson and Zhang Zhi'an, *Chinese Investigative Journalists' Dreams: Agency, Autonomy, Voice*, Rowman & Littlefield Publishers, 2013, p.157-177;

Svensson, Marina. 2016. Connectivity, Engagement and Witnessing on China's Weibo, in Avery Goldstein, Jacques DeLisle, and Yang Guobin, *The Internet, Social Media, and a Changing China*, University of Pennsylvania Press, 2016, p.49-70.

Tang Qiwei (唐琪薇). 2017. 徐友渔访谈: 习近平正用资本主义拯救中国共产党 [Xu Youyu Interview: Xi Jinping is Using Capitalism to Save the Chinese Communist Party], *Radio Free Asia* 2017, <https://www.rfa.org/mandarin/duomeiti/tebiejiemu/pov-01022018153504.html>

Teng Biao. 2012. Joshua Rosenzweig, 'The Sky is Falling: Inciting Subversion and the Defense of Liu Xiaobo, in Béja, Fu and Pils, *Liu Xiaobo, Charter 08, and the Challenges of Political Reform in China*, Hong Kong University Press, 2012, pp. 31-60

The Shanghaiist. 2015. Lawyer in railway shooting case "beaten by mob" in Guangxi, 19 May 2015, <http://shanghaiist.com/2015/05/19/lawyer-railway-shooting-case-beaten-by-mob.php>;

Tian Jing (田净). 2014. 律师诉湖南省司法厅案开庭嘲讽司法厅 [Lawyer mocks court at hearing in case against Hunan provincial level justice bureau], 16 May 2014, *NDTV*.

Tian Jing (田净). 2015. 江西“乐平冤案”背后或涉更大高官 [Even higher-ranking officials Jiangxi 'Leping Case'], *Epoch Times*, 28 May 2015, <http://www.epochtimes.com/gb/15/5/28/n4444475.htm>.

Tian Ying (田莹). 2018. 天津二中院回应翟岩民案传言: 与事实严重不符 [Tianjin No. 2 Intermediate Court Responds to the Zhai Yanmin Case: Serious Inconsistency with the Facts], 2 August 2018, <http://news.sohu.com/20160802/n462274313.shtml>.

U.S. China Institute. 2015. Anne-Marie Brady - Propaganda and Thought Work in the Xi Jinping Era, 2 July 2015, <https://www.youtube.com/watch?v=pf2pvH9Qxpo>;

Veg, Sebastian. 2015. New Spaces, New Controls: China's Embryonic Public Sphere, *Current History*, September 2015, pp. 203-209.

- Vinx, Lars. 2014. 'Carl Schmitt' entry in *Stanford Encyclopaedia of Philosophy* (last revised 2014), <http://plato.stanford.edu/entries/schmitt>.
- Walker, Christopher, and Jessica Ludwig. 2017. The meaning of sharp power. How authoritarian states project influence, *Foreign Affairs*, 16 November 2017, <https://www.foreignaffairs.com/articles/china/2017-11-16/meaning-sharp-power>.
- Wang Gong (王工) et al. 2010. 敦请最高人民检察院立即对重庆打黑运动中的刑讯逼供问题依法调查的公开信 [Open letter requesting Supreme People's Procuracy immediately to open an investigation into the use of torture in the Chongqing anti-mafia campaign], published 23 August 2010, at <http://www.gongfa.com/html/gongfaxinwen/201008/23-1347.html>
- Wang Qiaoling. 2017. Chinese rights lawyer Li Chunfu mentally disturbed and physically ruined after abuse in custody, translated by Cao Yaxue, *ChinaChange*, 13 January 2017, available at <https://chinachange.org/2017/01/13/chinese-rights-lawyer-li-chunfu-mentally-disturbed-and-physically-ruined-after-abuse-in-custody/>.
- Wang Ruseng (王如僧). 2017. 中国法院的无罪率数据说明了什么, *Nanfang Dushibao*, 28 November 2017, http://epaper.oooo.com/epaper/A/html/2017-11/06/content_84109.htm
- Wang Yu (王宇). 2017. 王宇、包龙军：致敬！“709”案辩护人！ [Wang Yu and Bao Longjun salute the criminal defenders in the 907 cases!], *Botan*, 9 July 2017, <https://botanwang.com/articles/201707/%E7%8E%8B%E5%AE%87%E6%9B%9D%E5%85%89%E9%85%B7%E5%88%91%E3%80%80%E6%84%9F%E8%B0%A2%E5%85%B3%E6%B3%A8%E4%BF%83%E5%A4%84%E5%A2%83%E6%94%B9%E5%96%84.html>.
- Wang Yu. 2017. Excerpt from 'The People's Republic of the Disappeared,' *ChinaChange*, 13 November 2017, <https://chinachange.org/2017/11/13/the-nightmare-an-excerpt-of-lawyer-wang-yus-account-of-709-detention-and-torture/>.
- Wei quanwang. 2015. 紧急关注：维权人士屠夫（吴淦）在江西高院门口被抓 [Urgent attention: rights defender Tu Fu (Wu Gan) detained at entrance of Jiangxi High People's Court], *Wei quanwang*, 19 May 2015, http://wqw2010.blogspot.co.uk/2015/05/blog-post_784.html
- Wei quanwang. 2014. 黑龙江省农垦总局法制教育中心（俗称“青龙山洗脑班”以下简称“黑监狱”） [Legal Education Centre of the Heilongjiang Province General Bureau of Farm Reclamation (popularly known as Qinglongshan Brainwashing Class)], at http://wqw2010.blogspot.co.uk/2014/04/blog-post_2873.html.
- Wong, Edward. 2016. Clampdown in China restricts 7,000 foreign organizations, *New York Times*, 28 April 2016, available at http://www.nytimes.com/2016/04/29/world/asia/china-foreign-ngo-law.html?_r=0.
- Wu Dao Guang (吴寻光). 2016. 天津二中院门口的闹剧 [Farce at the gates of Tianjin Second Intermediate Court], 3 August 2016, <https://www.youtube.com/watch?v=kuPNKssZ3io&feature=youtu.be>;
- Xie Yang and Chen Jiangang (2017. Transcript of interviews with lawyer Xie Yang (3) – dangling chair, beating, threatening lives of loved ones, and framing others, translated by Cao Yaxue, *ChinaChange*, 21 January 2017, <https://chinachange.org/2017/01/21/transcript-of-interviews-with-lawyer-xie-yang-3-dangling-chair-beating-threatening-lives-of-loved-ones-and-framing-others/>
- Xie Yanyi (谢燕益). 2017. A record of 709, *ChinaChange*, 15 October 2017, <https://chinachange.org/2017/10/15/a-record-of-709/>.
- Xing Bingyin and Liu Hao (邢丙银, 刘旌). 2015. 申诉者之江西黄志强案/澎湃独家视频 [Huang Zhiqiang, one of the complainants (seeking retrial)], 23 May 2015, http://m.thepaper.cn/newsDetail_forward_1334199.

- Yang Fan (扬帆). 2017. “江天勇案”开庭 家属斥当局自编自导庭审 [Hearing in Jiang Tianyong case: Family criticise it as a self-scripted, self-directed courtroom production of the authorities], *Radio Free Asia*, 22 August 2017, <http://www.rfa.org/mandarin/yataibaodao/renquanfazhi/yf1-08222017103322.html>.
- Yang Fan. 2016. China Arrests Two Lawyers, One Activist on Subversion Charges, *Radio Free Asia*, 12 January 2016, <http://www.rfa.org/english/news/china/arrests-01122016125405.html>
- Yang, Fan (扬帆). 2015. 范木根案发生两年 公民苏州聚会声援 [On second anniversary of Fan Mugen case, citizens gather in Suzhou to express support]. *Radio Free Asia*, 5 December 2015. <http://www.rfa.org/mandarin/yataibaodao/renquanfazhi/yf2-12052015082848.html>
- Yang, Guobin. 2009. *The Power of the Internet in China: Citizen Activism Online*, Columbia University Press, 2009.
- Yuan Yulai (袁裕来). 2015. 办案手记：谢阳律师诉湖南省司法厅案, *Lawyer Yuan Yulai's Blog*, 22 April 2015, <http://yuanyulai.blog.caixin.com/archives/71678>
- Zhang Xueran. 2012. China's All-Star Legal Team Pleads for Defendants' Rights On Social Media, *Tea Leaf Nation*, 25 July 2012 at <http://tealeafnation.com/2012/07/bilingual-brew-chinas-all-star-legal-team-pleads-for-defendants-rights-on-social-media>.
- Zhao, Kiki. 2015. China Clears Police Officer in Death of Unarmed Man, but Controversy Isn't Over, *New York Times Sinosphere Blog*, 15 May 2015, <http://sinosphere.blogs.nytimes.com/2015/05/15/china-police-shooting-xu-chunhe/>.
- Zhongguo Chang'an Net (中国长安网). 2016. 天津二中院回应翟岩民案传言：与事实严重不符 [Tianjin Second Intermediary Court responds to rumours in Zhai Yanmin case: severe inconsistency with facts], <http://news.sohu.com/20160802/n462274313.shtml>

Treaties, laws, regulations, official documents

Chinese Communist Party Central Committee Decision concerning Some Major Questions in Comprehensively Moving Governing the Country According to the Law Forward, 28 October 2014, translated by Rogier Creemers and Jeremy Daum, [at China Copyright and Media Blog](#);

Criminal Law of the People's Republic of China; bilingual version available at http://www.npc.gov.cn/englishnpc/Law/2007-12/13/content_1384075.htm

International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entered into force 23 December 2010) 2716 UNTS 3

United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 'Basic Principles on the Role of Lawyers 7 September 1990,' available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>.

中央政法委《关于建立律师参与化解和代理涉法涉诉信访案件制度的意见(试行)》[Party Central Political-Legal Committee Opinion on Establishing a System for Lawyers to Participate in Resolving and Acting as Representatives in Litigation-Related Petitioning Cases (Trial Version)] (10 November 2015), available at http://www.moj.gov.cn/index/content/2015-11/10/content_6348175.htm?node=7337.

中华人民共和国国家安全法 [National Security Law of the People's Republic of China], passed on 1 July 2015 at the 15th meeting of the Standing Committee of the 12th National People's Congress.

Websites

[China Human Rights Lawyers Concern Group \(CHRLCG\)](#)

[Chinese Human Rights Defenders \(CHRD\)](#)

